

Highly Confidential - Subject to Further Confidentiality Review

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - -

IN RE: NATIONAL : HON. DAN A.  
PRESCRIPTION OPIATE : POLSTER  
LITIGATION :  
:  
APPLIES TO ALL CASES : NO.  
: 1:17-MD-2804  
:

- HIGHLY CONFIDENTIAL -

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - -

November 29, 2018

- - -

Videotaped deposition of  
KANITHA BURNS, taken pursuant to notice,  
was held at the Topnotch Resort, 4000  
Mountain Resort, Stowe, Vermont,  
beginning at 9:21 a.m., on the above  
date, before Michelle L. Gray, a  
Registered Professional Reporter,  
Certified Shorthand Reporter, Certified  
Realtime Reporter, and Notary Public.

- - -

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4                   Testimony of:

5                                   KANITHA BURNS

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7

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None.

10

11 Stipulations

12 PAGE LINE

None.

13

Questions Marked

14

PAGE LINE

15 None.

16

17

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19

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1                   THE VIDEOGRAPHER: We are  
2                   now on the video record. My name  
3                   is David Kim. I'm a videographer  
4                   for Golkow Litigation Services.  
5                   Today's date is November 29, 2018,  
6                   and the time is 9:21 a.m.

7                   This location -- this video  
8                   deposition is being held in Stowe,  
9                   Vermont in the matter of National  
10                  Prescription Opiate Litigation  
11                  MDL-2804 for the U.S. District  
12                  Court, the Northern District of  
13                  Ohio Eastern Division.

14                  The deponent is Kanitha  
15                  Burns.

16                  Counsel will be noted on the  
17                  stenographic record.

18                  The court reporter is  
19                  Michelle Gray and will now swear  
20                  in the witness.

21                               - - -

22                   ... KANITHA BURNS, having  
23                   been first duly sworn, was  
24                   examined and testified as follows:

1                               -   -   -

2                               EXAMINATION

3                               -   -   -

4       BY MR. JANUSH:

5               Q.       Hi, Ms. Burns.   How are you  
6       today?

7               A.       Hi.   I'm fine.

8               Q.       My name is Evan Janush.   We  
9       had the pleasure of meeting briefly  
10       before this deposition began.   I'm with  
11       the The Lanier Firm, and we represent  
12       plaintiffs in this case.   Thank you for  
13       being here today to give your testimony.  
14       I understand you're no longer at  
15       Janssen --

16              A.       Correct.

17              Q.       -- employee.   So we  
18       appreciate your time even more given that  
19       fact.

20              A.       You're welcome.

21              Q.       Before we begin, I just want  
22       to go over a few different ground rules.  
23       Number one, I'm going to do my best to  
24       speak as clearly as I can.   If you don't

1 understand a question, please let me  
2 know. I'll seek to rephrase it.

3 Number two, if you need a  
4 break, you let me know. I'm going to be  
5 ago respectful as humanly possible.  
6 That's how I try to operate. So you let  
7 me know, and I will accommodate.

8 A. Okay.

9 Q. Number three, I need to ask  
10 whether there's anything prohibiting you  
11 today, like medication or otherwise, from  
12 giving your best and most accurate and  
13 honest testimony?

14 A. No, nothing.

15 Q. Okay. Moving on from there  
16 then, I'd like to know whether you've  
17 ever been deposed in a case before.

18 A. No.

19 Q. No. Okay. Welcome to the  
20 party.

21 A. Thank you.

22 Q. I'm not sure it'll be fun.  
23 I'm not sure it'll be a party. But  
24 hopefully I'll be as efficient as I can.

1 I've got a lot to accomplish today. I'm  
2 going to promise you to do my very best.  
3 Okay?

4 A. Appreciate it.

5 Q. I want to start by getting  
6 an understanding of who Kanitha Burns is.  
7 So background, biographical information.  
8 This is just for demonstrative purposes  
9 so I can take some notes.

10 A. Okay.

11 Q. I understand that you had a  
12 long history with Janssen; is that right?

13 A. About 15 years.

14 Q. Okay. Let's go back before  
15 Janssen. Let's start with your  
16 education.

17 A. Sure.

18 Q. Tell us about your education  
19 starting from after you graduated from  
20 high school?

21 A. Sure. So I went to the  
22 University of Carnegie -- I'm sorry. I  
23 went to Carnegie Mellon University, and I  
24 had a bachelor's degree in mechanical

1 engineering. Then I worked for about  
2 three, three and a half years, and then I  
3 went to graduate school. I went to the  
4 University of North Carolina Chapel Hill,  
5 where I received a master of business  
6 administration.

7 Q. All right.

8 A. And from there, I went to  
9 work at Janssen.

10 Q. So Janssen was your first  
11 job after obtaining your MBA?

12 A. Correct.

13 Q. Okay. Tell us about your  
14 first job at Janssen. If I understand it  
15 correctly, you started as an assistant  
16 project manager on the Pepcid team; is  
17 that right?

18 A. Correct.

19 Q. I show a job for three years  
20 and one month from your LinkedIn page at  
21 Caterpillar?

22 A. Correct.

23 Q. So when was the Caterpillar  
24 job? It looks like it's January of '96

1 through January of '99.

2 A. So Caterpillar was right  
3 after Carnegie Mellon.

4 Q. Okay.

5 A. I received a mechanical  
6 engineering degree. And then I went to  
7 work at Caterpillar as an engineer for  
8 about three an a half years. And then  
9 that's when I went to graduate school.

10 Q. Got it. Okay. And so after  
11 graduating from University of North  
12 Carolina, you started at Johnson &  
13 Johnson Merck Consumer Pharmaceuticals in  
14 January of 2000; is that right?

15 A. That is the correct date.  
16 Just to explain. I -- I had that job  
17 with that company prior to going to the  
18 University of North Carolina. So it was  
19 a short period of time.

20 Q. Okay. And that's J&J Merck  
21 for Pepcid, right?

22 A. For Pepcid, yes.

23 Q. All right. What were your  
24 job --



1 MS. STRONG: Mr. Janush,  
2 just to be clear for the record.  
3 I just want to make sure it's  
4 understood that Mr. Janush is  
5 writing these notes down and that  
6 it's not the witness writing.  
7 Just so we have clarity as to  
8 what's happening here in the room.

9 MR. JANUSH: Fair enough.  
10 It's all me. Forgive my sloppy  
11 handwriting as well. I'm writing  
12 as fast as I can to stick with  
13 you.

14 THE WITNESS: No problem.

15 BY MR. JANUSH:

16 Q. All right. So Pepcid, let's  
17 talk about what you did for -- for J&J  
18 Merck concerning Pepcid.

19 A. So that role, I was there  
20 for a short period of time. I believe  
21 two or three months. And I was a project  
22 manager. The -- the company was getting  
23 ready to launch Pepcid Complete. And I  
24 was asked to help with some of the

1 production issues that they had in terms  
2 of storage of the products. So I had  
3 sort of a project management role  
4 resolving some of the issues that came up  
5 right before launch, from a logistics and  
6 operations perspective.

7 Q. Okay. Your LinkedIn profile  
8 shows that -- that you were there for six  
9 months in Fort Washington, Pennsylvania.  
10 Would it be closer to two to three months  
11 as you just testified or about six  
12 months?

13 A. Gosh, I don't -- I don't  
14 recall.

15 Q. Okay. And then following  
16 that, you became a marketing associate  
17 for Plavix at Bristol-Myers Squibb from  
18 June 2001 to August 2001. Is that about  
19 right?

20 A. Yes. That sounds about  
21 right. That was between my first year  
22 and second year at the University of  
23 North Carolina. So it was kind of like a  
24 summer internship.

1           Q.     Okay. And incidentally,  
2     what year did you graduate from  
3     University of North Carolina?

4           A.     2002, I believe.

5           Q.     So the next job that I show  
6     is Johnson & Johnson Centocor, Inc. Tell  
7     us about that job.

8           A.     So that was the first role I  
9     had after receiving my MBA. I worked on  
10    a product called Remicade which is a  
11    biologic, for -- now it has a lot of  
12    different indications. At the time the  
13    first role I worked on dermatology  
14    franchise as the company was getting  
15    ready to launch Remicade for a  
16    dermatology indication. And that was a  
17    marketing role.

18          Q.     What role in marketing did  
19    you have?

20          A.     So at the time it was prior  
21    to receiving FDA indication. So we were,  
22    you know, getting ready to launch. So a  
23    lot of what I did was what we call launch  
24    preparation in terms of understanding,

1     you know, how to position the product,  
2     what would we talk about the product in  
3     terms of the benefits that it would bring  
4     to the marketplace.

5             Q.     All right. And I show a  
6     position for one year as an associate  
7     manager Remicade dermatology marketing.  
8     Is that what you're speaking to?

9             A.     Yes, correct.

10            Q.     Okay. And after that, it  
11     looks like you became a senior manager  
12     for Remicade commercial payer marketing;  
13     is that right?

14            A.     Correct.

15            Q.     Okay. And as a senior  
16     manager in the commercial payer  
17     marketing, what did your duties entail?

18            A.     Well, it was a pretty small  
19     team, so I had a large sort of list of  
20     responsibilities. Setting the strategy,  
21     creating the message for the product,  
22     creating sales tools, training the sales  
23     representatives. So it's -- it's pretty  
24     encompassing in terms of the

1 responsibilities.

2 Q. Okay. So what training did  
3 you have before transitioning to this  
4 role that enabled you to set strategy,  
5 create messaging, and train sales reps?

6 MS. STRONG: Objection to  
7 form.

8 MR. JANUSH: I can break it  
9 down.

10 BY MR. JANUSH:

11 Q. What training did you have  
12 before taking on this position that  
13 enabled you to set strategy for the  
14 commercial payer marketing team?

15 A. I don't recall any specific  
16 training for the purpose that you stated.

17 Q. What about setting strategy?

18 MS. STRONG: Object --  
19 objection to form.

20 THE WITNESS: I'm sorry,  
21 what's the --

22 BY MR. JANUSH:

23 Q. So the question is, what  
24 training did you have specific to setting

1 commercial brand strategy or payer  
2 marketing strategy?

3 MS. STRONG: Same objection.

4 THE WITNESS: I don't  
5 recall --

6 MS. STRONG: Go ahead.

7 THE WITNESS: I don't recall  
8 any particular training to set  
9 strategy. It's assumed that I  
10 would be able to do that.

11 BY MR. JANUSH:

12 Q. And how about the same  
13 question as it pertains to training that  
14 you received to create brand messaging.

15 MS. STRONG: Objection to  
16 form.

17 THE WITNESS: So likewise, I  
18 don't recall any particular  
19 training.

20 BY MR. JANUSH:

21 Q. Okay. And how about, did  
22 you have any particular training for the  
23 purposes of giving you expertise in  
24 training sales representatives?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: Again, there's  
4 no particular training for that.  
5 You know, I was hired in with an  
6 expectation that these are skill  
7 sets that -- that I would bring to  
8 the table.

9 BY MR. JANUSH:

10 Q. Incidentally, a little bit  
11 ago we talked about Carnegie Mellon,  
12 bachelor in mechanical engineering,  
13 University of North Carolina MBA.

14 Do you have any medical  
15 education background, formal education?

16 A. Medical as in -- what do you  
17 mean by medical?

18 Q. Science. Bio -- biology,  
19 medical, specific medical training. You  
20 don't have a medical degree, right?

21 A. Correct, I don't have a --

22 Q. Not a doctor?

23 A. Correct.

24 Q. Not a pharmacist?

1           A.     Correct. Now, as part of my  
2     engineering training, I had to take  
3     science classes, like biology, chemistry,  
4     physics, as part of the curriculum.

5           Q.     Following the three years as  
6     Remicade commercial payer marketing, in  
7     that role with commercial payer  
8     marketing, it looks like you became an  
9     associate director at J&J for Simponi  
10    global strategic marketing; is that  
11    right?

12          A.     Correct, Simponi.

13          Q.     What's it called?

14          A.     Simponi.

15          Q.     Simponi? And what is that?

16          A.     It's another biologic for  
17    the treatment for, you know, conditions  
18    in rheumatology, gastroenterology, and  
19    dermatology.

20          Q.     Okay. And what did you do  
21    in that role?

22          A.     So I was in that role for  
23    several years. So it was a global  
24    marketing position, and the role was to



1 bring Simponi to market. So working with  
2 the team to set the strategy for how we  
3 would launch the product. You know,  
4 identify different shading factors and  
5 characteristics about the product and  
6 developing sort of the overall launch  
7 strategy.

8 Q. How did that go?

9 MS. STRONG: Objection to  
10 form.

11 THE WITNESS: Yeah, I'm not  
12 sure what you're asking.

13 BY MR. JANUSH:

14 Q. How did your role go in  
15 total?

16 MS. STRONG: Objection to  
17 form.

18 BY MR. JANUSH:

19 Q. How would you describe it?

20 A. I don't know what you mean  
21 how the role went.

22 Q. Did you do a good job?

23 MS. STRONG: Objection to  
24 form.

1 THE WITNESS: I think I did  
2 a good job.

3 BY MR. JANUSH:

4 Q. What led you to leave that  
5 role and -- actually I should say you  
6 transitioned from that role to become the  
7 acting global marketing leader; is that  
8 right?

9 A. Correct.

10 Q. Okay. And in that role you  
11 led the global commercial team?

12 A. Correct.

13 Q. What does that mean, to lead  
14 the global commercial team?

15 A. It meant I was the leader of  
16 the team, so I had two people on the team  
17 that I was responsible for.

18 I was responsible for  
19 Simponi and also for Remicade at the  
20 time.

21 Q. And your LinkedIn profile  
22 states that -- that you advanced Simponi  
23 long-term commercial strategy as a voting  
24 member on a clinical board of some --

1     some type. What was that?

2             A.     Correct. So there's a  
3     clinical development team, has, you know,  
4     cross-functional members on that team.  
5     And that's the team that makes decisions  
6     about high level strategic decisions  
7     about what we do with the compound in  
8     terms of what indication it would be  
9     studied.

10            You know, where we might  
11     market the product, what countries in the  
12     world. So that team would be responsible  
13     for making those decisions. So I was --  
14     since I was the acting global marketing  
15     leader, I represented the commercial team  
16     and I was a voting member on that board.

17            Q.     And then after that role it  
18     looks like you then transitioned to  
19     Nucynta; is that correct?

20            A.     Correct.

21            Q.     Tell us about your role at  
22     Janssen as it started in December of 2011  
23     with Nucynta.

24            A.     Okay. So I was on the

1 Nucynta team for about three years, I  
2 believe, total. And I had a variety of  
3 responsibilities over the three years,  
4 because the team leader believed that we  
5 should all sort of, you know, get  
6 different experiences. So I worked on  
7 several different things on that team.

8 Q. Who was your -- when you  
9 said the team leader thought that you  
10 should all have several different  
11 experiences. Who was your team leader?

12 A. At the time, David Lin was  
13 the director of marketing, and he led the  
14 team.

15 Q. Okay. Why don't you  
16 describe your role more specifically.

17 MS. STRONG: Objection to  
18 form.

19 THE WITNESS: Okay. Well,  
20 over -- as I stated before, over  
21 time, you know, I worked on  
22 several different things. I would  
23 say that the most substantial work  
24 was being responsible for what we

1 call professional marketing, which  
2 is marketing to clinicians and  
3 prescribers. And I was  
4 responsible for, you know, making  
5 recommendations around the  
6 strategy, the messages, and  
7 sales -- educational sales tools  
8 for the sales team.

9 BY MR. JANUSH:

10 Q. Let's talk about what you  
11 specifically did within marketing.

12 I understand that you tout  
13 yourself as having delivered more  
14 relevant market insights. What does that  
15 mean?

16 MS. STRONG: Objection to  
17 form.

18 THE WITNESS: I'm sorry.  
19 Ask your question again.

20 BY MR. JANUSH:

21 Q. Sure.

22 A. I just want to make sure.

23 Q. I said, let's talk about  
24 what you specifically did within

1 marketing. I understand that you tout  
2 yourself as having delivered more  
3 relevant market insights. What does that  
4 mean?

5 MS. STRONG: Again, same  
6 objection.

7 THE WITNESS: So what does  
8 delivering more --

9 BY MR. JANUSH:

10 Q. -- relevant market insights  
11 mean.

12 A. -- relevant market insights.  
13 So in general, that means that I'm taking  
14 insight about what I have learned or the  
15 team has learned about the marketplace or  
16 about the customers and using that to,  
17 you know, develop or change our strategy  
18 about what we do with the product, so  
19 that we can, you know, better bring value  
20 to the prescribers and educate them about  
21 the product, you know, that we were  
22 responsible for.

23 Q. Okay. And I also see here  
24 that you optimized customer target and

1 sales incentive compensation. What does  
2 that mean?

3 MS. STRONG: Objection to  
4 form.

5 THE WITNESS: So what I was  
6 referring to is a process that the  
7 team went through to change sort  
8 of the way that we were targeting  
9 who the sales representatives  
10 would call on to make it more  
11 relevant and, you know, better  
12 suit what we were trying to  
13 accomplish.

14 BY MR. JANUSH:

15 Q. So let's break that down.  
16 What specifically were you doing to  
17 optimize customer target and make it more  
18 relevant to suit what you were trying to  
19 accomplish?

20 A. When I first joined the  
21 Nucynta team, Nucynta was being sold by a  
22 sales team that was also selling two  
23 other products. So we had to balance who  
24 we had to talk to depending on all three

1 product needs. So we were calling on  
2 people who might not have had as much  
3 interest in Nucynta as they might have  
4 had for the other -- the other products.

5 We, you know, wanted to make  
6 sure that we can focus the sales team on  
7 clinicians that were more important to  
8 the product, and actually the list of  
9 clinicians that the company called on was  
10 reduced and, you know, and made more  
11 relevant to Nucynta without having to  
12 sort of share the resources with other  
13 products.

14 Q. When you say that you  
15 focused on clinicians that were more  
16 relevant to the product. Does that  
17 equate to focusing on clinicians that  
18 were higher prescribers?

19 MS. STRONG: Objection to  
20 form.

21 THE WITNESS: Not -- not  
22 necessarily.

23 BY MR. JANUSH:

24 Q. You sure about that?



1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: That's what I  
4 recall. Mm-hmm.

5 BY MR. JANUSH:

6 Q. Okay. We'll come back to  
7 that a little later.

8 A. Sure.

9 Q. Just taking notes. So if it  
10 was not necessarily that you were focused  
11 on higher prescribers, what was it that  
12 you were focused on when you were looking  
13 at clinicians that were more important to  
14 the product?

15 MS. STRONG: Objection to  
16 form.

17 THE WITNESS: You know,  
18 there's a lot of factors that went  
19 into it. You know, I don't recall  
20 all the different factors.

21 BY MR. JANUSH:

22 Q. Why don't you give me the  
23 top three.

24 MS. STRONG: Objection to

1 form.

2 THE WITNESS: I don't know  
3 if I would be accurate in  
4 recalling back so many years ago  
5 in terms of what the top three  
6 reasons were.

7 I would say that the main  
8 reason was that we were splitting  
9 resources among three other  
10 brands, and we were sort of  
11 competing with ourselves in terms  
12 of how we would direct each  
13 salesperson, who they would call  
14 on, how much time they would spend  
15 talking about Nucynta versus  
16 talking about a cardiovascular  
17 product for example.

18 So that was the primary  
19 reason for pulling Nucynta out of  
20 that sales team so that we can be,  
21 you know, much more focused.

22 BY MR. JANUSH:

23 Q. Can you appreciate that the  
24 primary reason in terms of the split or

1 division of resources among salespeople  
2 is different from the question I'm  
3 asking? I'm asking what led to the focus  
4 on clinicians that were, quote, more  
5 important to the product?

6 MS. STRONG: Objection to  
7 form.

8 THE WITNESS: I believe I'm  
9 answering that question. So let  
10 me try again. If you have a sales  
11 team that is selling a pain  
12 product and also selling a  
13 cardiovascular disease product and  
14 a diabetes product, there are  
15 going to be some clinicians that  
16 don't see all three of those  
17 patients.

18 So it's really about going  
19 to clinicians that treat pain, and  
20 that would make it more relevant  
21 for Nucynta, because there are  
22 some people who don't do that.

23 So that's really the driving  
24 factor of what would be more

1           relevant for Nucynta. Does that  
2           make sense?

3       BY MR. JANUSH:

4           Q.     Okay. So to make sure I  
5       understand you, focusing on clinicians  
6       more important to the product was equated  
7       to focusing sales resources, detail reps,  
8       on doctors that treat pain management?

9                   MS. STRONG: Objection to  
10       form.

11                   THE WITNESS: I'm sorry. I  
12       kind of lost you.

13       BY MR. JANUSH:

14           Q.     You can read it back. It's  
15       on that iPad right there.

16                   MS. STRONG: Hold on. Same  
17       objection.

18                   THE WITNESS: Yeah, so I  
19       would say that clinicians who are  
20       more important to the product were  
21       the clinicians who treat pain,  
22       yes.

23       BY MR. JANUSH:

24           Q.     And in this role as an --

1 initially, it looks like for the first  
2 three years, from December 2011 through  
3 October 2014, while you were working on  
4 Nucynta, you were a product director; is  
5 that right?

6 A. Correct.

7 Q. Okay. What does that mean  
8 to be a product director?

9 A. A product director at the  
10 time meant that I was a director level,  
11 and I was a marketer responsible for a  
12 particular product, in this case Nucynta.

13 Q. Okay. Who many -- how many  
14 people above you did you report to?

15 A. Well, I have one direct --  
16 one person that I reported to directly.  
17 And then that person reported to another  
18 marketing person.

19 Q. Okay. And who did you  
20 report directly to?

21 A. So that changed over time.  
22 At first it was Tricia Yap.

23 Q. Okay. And thereafter?

24 A. And then after was -- why is

1     it not coming to me? Oh, my God. I can  
2     see his face. Terry Davidson. Sorry  
3     about that.

4             Q.     And who did -- Tricia is  
5     short for Patricia, correct?

6             A.     Yes, I think so.

7             Q.     Okay. And who did Tricia  
8     Yap report directly to?

9             A.     David Lin.

10            Q.     Okay. And who did Terry  
11     Davidson report to?

12            A.     Fred Tewell.

13            Q.     And what was the reason for  
14     the switch in terms of Terry reporting to  
15     Fred Tewell as opposed to David Lin? Did  
16     David leave at that time?

17                   MS. STRONG: Objection to  
18     form.

19                   THE WITNESS: Dave -- at the  
20     time that Terry was on the team,  
21     David was no longer on the team.

22     BY MR. JANUSH:

23            Q.     Okay. Where did David go?

24            A.     He had left Janssen. I

1 don't recall exactly where he went.

2 Q. Okay. And then after  
3 October of 2014, after working on Nucynta  
4 for about two years and 11 months, you  
5 transitioned to a different job within  
6 Janssen; is that right?

7 A. Correct.

8 Q. And what was that job?

9 A. I was a district manager  
10 working on Invega Sustenna and Invega  
11 Trinza.

12 Q. And what led to that  
13 transition?

14 A. I wanted to have a different  
15 experience, and I wanted to also try my  
16 hand at sales management.

17 Q. Okay. Did anything have to  
18 do with the fact that Nucynta's business  
19 was winding down and Janssen was getting  
20 ready to sell Nucynta in 2015?

21 MS. STRONG: Objection to  
22 form.

23 THE WITNESS: It was a  
24 personal development of mine to do

1 something different. You know,  
2 and I had been on the team for  
3 close to three years. So it was  
4 something that I had planned for  
5 my own personal development.

6 BY MR. JANUSH:

7 Q. Got it. Okay.

8 I'm going to move to a large  
9 budget document that we printed out.  
10 This is, let's see, Bates number  
11 JAN-00119068 and I'm going to give you a  
12 complete set. I'm going to mark this  
13 as -- actually before I do that, just for  
14 housekeeping purposes, I'm going to mark  
15 the LinkedIn document as Exhibit 1. I'll  
16 give you a chance to look at that, just  
17 to make sure if that's your LinkedIn  
18 page.

19 (Document marked for  
20 identification as Exhibit  
21 Janssen-Burns-1.)

22 BY MR. JANUSH:

23 Q. Tell me if you recognize  
24 that.



1           A.     Yeah, it looks -- looks  
2     familiar. I don't know. I haven't gone  
3     in there in a long time.

4           Q.     Okay.

5           A.     But yeah, it looks familiar.

6           Q.     That -- and that picture is  
7     you, right?

8           A.     Yes.

9           Q.     And that name is your name,  
10    right?

11          A.     Yes.

12          Q.     And the titles and  
13    responsibilities are yours, correct, your  
14    history?

15          A.     Yes.

16          Q.     And did anyone write this,  
17    this document or go into LinkedIn and  
18    write your bio up, or did you handle this  
19    personally?

20          A.     I handled it personally.

21          Q.     Okay. So having marked that  
22    as Exhibit 1, now I'm going to move on to  
23    the document I previously spoke about,  
24    which is --

1           A.       Would you like this back

2    or --

3           Q.       You can set it aside right

4    there.

5                   MS. STRONG:   And to be clear

6                   just for the record, Exhibit 1,

7                   Mr. Janush, you represent that you

8                   printed that off of the LinkedIn

9                   page?

10                  MR. JANUSH:   I represent

11                  that I actually took complete

12                  screen shots of the page in order

13                  to get the best print.  It's very

14                  hard to print it by just hitting

15                  print.  You get a lot of jumbled

16                  information.  So the best way, the

17                  cleanest way is to take screen

18                  shots.  So that's what I've done.

19                  There are, as a caveat to

20                  that, because screen -- the screen

21                  is limited in size, there are

22                  areas where you would have to

23                  click on a "more" link to read

24                  more.  So it doesn't give

1 everything. It gives, I would  
2 say, 90 percent of the essence  
3 of -- of the LinkedIn bio.

4 MS. STRONG: Thank you. I  
5 just want to make clear it wasn't  
6 Ms. Burns who printed this and  
7 provided it. That you provided it  
8 for purposes of this deposition  
9 today.

10 MR. JANUSH: That's right.  
11 I didn't get a CV in advance of  
12 the deposition and I was forced to  
13 go on LinkedIn to obtain that.

14 MS. STRONG: And to be  
15 clear, I don't think you -- one  
16 was requested, but that's fine. I  
17 don't think you were forced in any  
18 way.

19 BY MR. JANUSH:

20 Q. So you're going to get --  
21 this is marked as Exhibit 2. And I'm  
22 going to hand that over to you.

23 (Document marked for  
24 identification as Exhibit

1 Janssen-Burns-2.)

2 BY MR. JANUSH:

3 Q. I printed this as large as I  
4 could. Now admittedly you're getting a  
5 shorter copy because of the fact that we  
6 were incapable of printing multiple large  
7 copies. I'm not probably going to use  
8 anything else, but if I go beyond this  
9 shorter copy -- she has the complete set.  
10 There's multiple tabs. We can put it up  
11 on the -- on the Elmo.

12 Again, this is JAN-00119068.

13 And --

14 MS. STRONG: And so -- and  
15 you are representing that I, as  
16 counsel, I'm getting --

17 MR. JANUSH: You're getting  
18 as counsel -- yes.

19 MS. STRONG: -- a limited  
20 version --

21 MR. JANUSH: Ms. Burns is  
22 getting -- has the full version  
23 next to her.

24 BY MR. JANUSH:

1           Q.     And this looks to be a 2012  
2     brand investment summary. Do you recall  
3     seeing spreadsheets that looked like  
4     this?

5           A.     I recall spreadsheets that  
6     looked like this, yes.

7           Q.     Okay.

8                   MS. STRONG: And just for  
9     the record, I just -- I object to  
10    not getting a complete copy of  
11    what the witness has and what --  
12    what you have at this time.

13                   So going forward, I would  
14    ask that you please make sure that  
15    we have complete copies of  
16    whatever it is that you're showing  
17    the witness.

18                   MR. JANUSH: That's fair.

19                   My other option is that I  
20    can take back the witness's copy  
21    and use the Elmo entirely and give  
22    you a copy if you'd like.

23                   MS. STRONG: I'm fine to  
24    proceed in this way right now. I

1           just want -- going forward, I  
2           think best practice ought to be to  
3           have complete copies of whatever  
4           is presented to the witness.

5                     So if it becomes a problem,  
6           we can stop and change approach,  
7           but --

8                     MR. JANUSH: Yes.

9                     MS. STRONG: -- just want to  
10          note that going forward.

11                    MR. JANUSH: I think we ran  
12          out of the big paper, and this is  
13          a fairly complex custom print. So  
14          please forgive me on that -- in  
15          that regard.

16                    MS. STRONG: Understood.

17                    MR. JANUSH: But it is why  
18          we have -- one of the reasons why  
19          we have the Elmo here. So you'd  
20          never be cheated and get to see  
21          everything.

22          BY MR. JANUSH:

23                    Q.       So this -- I'm going to  
24          represent to you that this came out of

1 your custodial file production. Do you  
2 understand what a custodial file -- file  
3 production is?

4 A. I mean I don't know the  
5 term.

6 Q. Okay.

7 A. I assume it's --

8 Q. So it's my understanding  
9 that attorneys who work for Janssen, and  
10 perhaps inhouse counsel as well, went  
11 through and looked for what Kanitha Burns  
12 maintained on her hard drive, in her  
13 e-mails, et cetera.

14 A. Okay.

15 Q. And produced documents that  
16 were potentially relevant to this  
17 litigation.

18 A. Okay.

19 Q. And that this was produced  
20 within your custodial file production as  
21 a budget or a brand investment summary  
22 for the -- what appears to be the budget  
23 for 2012. It seems to list the  
24 objectives, the brand tactics on the left

1 side. Do you see that?

2 A. Mm-hmm.

3 Q. And then right next to that,  
4 you see vendor?

5 A. Mm-hmm.

6 Q. And then right next to that  
7 in the third column over -- actually the  
8 fourth column over, owner?

9 A. Mm-hmm.

10 Q. And then PO, what does PO  
11 stand for?

12 A. Purchase order.

13 Q. Okay. And it looks like  
14 that there's an initial 23.5 JU budget.  
15 What does JU stand for?

16 A. June.

17 Q. June? Okay. And then it --  
18 it seems to say that -- that -- there --  
19 it looks like there was a goal to cut 1.7  
20 million from this budget.

21 And then I'm going to jump  
22 to the end in the orange -- the orange  
23 column. I'm going to put this up here.  
24 And it looks like the total budget was



1 21.8 million for 2012 strategic  
2 imperatives concerning Nucynta. Do you  
3 see that?

4 A. I see it.

5 MS. STRONG: Objection to  
6 form.

7 BY MR. JANUSH:

8 Q. Okay. Now, on this second  
9 page, if you flip it to the second page.

10 MR. JANUSH: And you'll have  
11 that, Ms. Strong.

12 BY MR. JANUSH:

13 Q. I see that you are tasked  
14 with DPN overview training e-module,  
15 vendor Axiom, and a \$85,903 amount  
16 ultimately coming from within the  
17 \$21.8 million budget. Do you see that?

18 MS. STRONG: Objection to  
19 form.

20 THE WITNESS: I see what  
21 you're saying.

22 BY MR. JANUSH:

23 Q. Okay. What is the DPN  
24 overview training E-module?

1           A.     You know, it's been a long  
2     time. I don't recall what, you know,  
3     what that would entail, but it has  
4     something to do with the DPN indication.

5           Q.     And, and the training  
6     E-module concerns sales training  
7     E-modules, electronic sales training  
8     modules for representatives, doesn't it?

9                   MS. STRONG: Objection to  
10           form.

11    BY MR. JANUSH:

12           Q.     I see that name throughout  
13     the document production in this case.  
14     The concept of training E-module, quote?

15           A.     So the --

16                   MS. STRONG: Same objection.

17                   THE WITNESS: The -- my  
18     recollection is that this would be  
19     for sales training.

20    BY MR. JANUSH:

21           Q.     And do you recall who Axiom  
22     is?

23           A.     No. I don't.

24           Q.     Okay. And moving on down,

1 it looks like you were tasked with "grow  
2 brand awareness through print and online  
3 media and digital."

4 Do you see that?

5 MS. STRONG: Objection to  
6 form.

7 THE WITNESS: Can you point  
8 to --

9 BY MR. JANUSH:

10 Q. Sure.

11 A. Yes, I see it.

12 Q. Okay. And the owner, owner,  
13 owner means the person tasked at Janssen  
14 responsible to carry out a given line  
15 item, correct?

16 MS. STRONG: Objection to  
17 form.

18 THE WITNESS: So I would say  
19 that in general owner is the  
20 person who is responsible for  
21 making sure that that happens. It  
22 doesn't necessarily mean that they  
23 work on it alone.

24 BY MR. JANUSH:

1           Q.     Okay. So I'm not addressing  
2     whether you work on it alone. I'm  
3     addressing ultimate responsibility rests  
4     with an owner, correct?

5                   MS. STRONG: Objection to  
6     form.

7                   THE WITNESS: That would be  
8     the -- yeah, that would be the  
9     go-to person for that particular,  
10    whatever that is.

11    BY MR. JANUSH:

12           Q.     So for example, can you  
13    address the items that -- that you would  
14    have been listed as the go-to person, the  
15    owner in grow brand awareness?

16                   Let's rip through this as  
17    quickly as we can starting with compass  
18    credits?

19           A.     I'm sorry, what do you want  
20    me to do?

21           Q.     Address what you would have  
22    been -- testify as to what you were the  
23    owner of as you look at this document.

24                   MS. STRONG: Objection to

1 form.

2 THE WITNESS: Do you want me  
3 to just go through the list --

4 BY MR. JANUSH:

5 Q. Yep, I sure do.

6 A. -- and -- and see where my  
7 name is, and --

8 Q. And talk about it. Yep.

9 MS. STRONG: Objection to  
10 form. Let me see a question.

11 THE WITNESS: I'm not  
12 understanding what you want me to  
13 do.

14 So do you want me to tell  
15 you, for example, what compass  
16 credits is?

17 BY MR. JANUSH:

18 Q. I -- I first want -- wanted  
19 you to confirm that you were the owner  
20 for compass credits, correct?

21 A. I don't even -- I don't even  
22 know what compass credits is. I'm sorry.

23 Q. You were listed as the owner  
24 in Janssen's budget for compass credits,

1 correct?

2 A. I see my name. So first of  
3 all, you know, budget sheets are living  
4 documents. And things can change. And  
5 as you can see, it looks like that we  
6 were trying to make some modification.  
7 So this could have been a draft form. So  
8 it could have been that hey we want to do  
9 something like compass credits, which I  
10 don't recall what that is.

11 And then we may decide to  
12 not do it. So even if it's listed here  
13 doesn't mean that the project actually  
14 went through to completion. Going back  
15 to that Axiom, I don't recall the vendor.  
16 And maybe we never worked with that  
17 vendor because we never went through with  
18 that item because of budget cuts.

19 Q. Except for the fact that  
20 there's a purchase order for \$85,903, and  
21 this looks to be a debit against the  
22 budget at some point in the year.

23 Do you see that?

24 MS. STRONG: Objection to

1 form.

2 THE WITNESS: So in general  
3 if there's a PO, it can also be  
4 closed out without having been  
5 used. So just because there's a  
6 PO doesn't mean that it was used.

7 BY MR. JANUSH:

8 Q. Actually --

9 A. That's what I'm trying to  
10 say.

11 Q. Actually, invoicing means  
12 that, doesn't it? And the PO confirms  
13 that it was done. So invoiced at  
14 \$85,903, and then a PO that matches.

15 MS. STRONG: Objection to  
16 form.

17 BY MR. JANUSH:

18 Q. Do you see that?

19 A. I see what you're talking  
20 about with the invoice.

21 Q. And doesn't -- and if there  
22 is a debit at year-end of the total  
23 budget for that amount, wouldn't you  
24 presume -- would you agree as a general

1 principle that if something is listed on  
2 the budget, and then at the -- at some  
3 point in time you get to the bottom of  
4 the budget and the budget is reduced by  
5 that line item, then that line item was  
6 actually completed. Would you agree --

7 MS. STRONG: Objection to  
8 form.

9 BY MR. JANUSH:

10 Q. -- in principle with that  
11 concept?

12 MS. STRONG: Same objection.

13 THE WITNESS: I would say  
14 that in principle, yes, that makes  
15 sense, that if you have a budget  
16 and then you have, you know,  
17 reduced by that amount in general.

18 But again, this was a long  
19 time ago. And I don't know at  
20 what point this was pulled.

21 Because again, this is a living  
22 document, and it was always sort  
23 of being updated.

24 So, you know, I'm hesitant



1           to say for sure, you know, at any  
2           point in time, you know, what  
3           these things represented. But,  
4           yeah, in principle.

5       BY MR. JANUSH:

6           Q.     So if you go to the back of  
7           the -- let me count pages. If you go  
8           forward another one, two, three, four,  
9           five, six pages, you get to this page.  
10          And it's the last page on this first tab.  
11          I believe you have it too.

12                   And this page seems to imply  
13          what was done and what was not done  
14          because it addresses the remaining budget  
15          based on two point -- \$21.8 million for  
16          Nucynta.

17                   Do you see that? I'm  
18          pointing to it.

19                   MS. STRONG: Objection to  
20          form.

21       BY MR. JANUSH:

22           Q.     Remaining budget, remaining.  
23          And it shows that the brand team -- that  
24          this budget was over budget by \$30,380.

1 Do you see that?

2 MS. STRONG: Objection to

3 form.

4 BY MR. JANUSH:

5 Q. Where my finger is pointing.

6 See, look, I'm guiding you.

7 A. I see the number that you're  
8 pointing to.

9 Q. Okay. And it shows total  
10 purchase orders of \$22,007,286.

11 Do you see that?

12 A. I see -- I see what you're  
13 pointing at.

14 Q. It shows total invoicing at  
15 22,617 -- \$22,617,386.

16 Do you see that?

17 MS. STRONG: Objection to  
18 form.

19 THE WITNESS: I see the  
20 number that you're pointing to.

21 BY MR. JANUSH:

22 Q. This looks like to me, that  
23 a reasonable conclusion is that it's  
24 sometime fairly -- it's analyzing some

1 time after much of the budget allocation  
2 line items have been addressed and  
3 showing that Janssen's \$30,000 over the  
4 \$21.8 million original budget. Is that a  
5 fair reading of this?

6 MS. STRONG: Objection to  
7 form.

8 THE WITNESS: I -- you know,  
9 I don't know. I don't know. I  
10 don't know if all this is correct  
11 or not in terms of, you know, what  
12 we're seeing here.

13 BY MR. JANUSH:

14 Q. Did Janssen --

15 A. Because this is also a  
16 formula -- a bunch of formulas in here.  
17 So you're assuming that all the  
18 calculations are made correctly.

19 Q. No, I'm not assuming  
20 anything. I'm looking at a budget that's  
21 addressing all that's been invoiced under  
22 a 2012 brand investment summary budget.  
23 And showing that -- showing every  
24 purchase order, all that's been invoiced,

1 and showing where Janssen's \$30,000 over  
2 budget. And you're telling me that you  
3 can't count on this budget?

4 MS. STRONG: Objection to  
5 form. Misstates testimony.

6 THE WITNESS: I am -- I'm  
7 saying that you're asking me to  
8 review a document that is very  
9 large from many years ago.

10 BY MR. JANUSH:

11 Q. Right.

12 A. That was always changing  
13 depending on, you know, what information  
14 was populated. And you're asking me to  
15 make assumptions about what is here. So  
16 I'm saying that I see the numbers, but,  
17 you know, I'm not sure if -- I'm not sure  
18 what you're asking me.

19 Q. You're not sure whether it's  
20 accurate. Is that what you're  
21 addressing?

22 MS. STRONG: Objection to  
23 form. Misstates testimony.

24 THE WITNESS: I'm not sure

1           what it's accurate to --

2       BY MR. JANUSH:

3           Q.     Okay.

4           A.     -- because it's -- like I  
5       said, it's a living document, and the  
6       information is received from another  
7       system to be put into here. So if there  
8       are things that are not put into here,  
9       then I'm also not seeing it.

10          Q.     Let's go to some very  
11       specific issues. Were you responsible --  
12       the owner of specialty print media -- I'm  
13       going back to the second page of this  
14       document.

15          A.     "Specialty print media," two  
16       lines after the "grow brand awareness"?

17          Q.     Yes.

18          A.     Okay.

19          Q.     Were you the owner of that?

20          A.     I see my name here. But I  
21       don't recall what "specialty print media"  
22       would refer to.

23          Q.     Okay. "MediScript  
24       prescription pad ads." Are you the owner

1       that was associated with that?

2               A.       Yes.

3               Q.       What is MediScript  
4       prescription pad ads?

5               A.       MediScript is a company that  
6       produces prescription pads that they sell  
7       to clinicians or prescribers.

8       Prescription pad ad is when, you know,  
9       someone like Janssen can buy an ad spot  
10      in the prescription pad.

11              Q.       So for example, at the very  
12      bottom of a prescription pad it might  
13      have an advertisement. No?

14                      Where would the ad be?

15                      MS. STRONG: Objection to  
16      form.

17                      THE WITNESS: The ad would  
18      be interspersed with the actual  
19      prescription pads. The  
20      prescription pads are not changed.

21                      So there will be  
22      prescription pads, and then maybe  
23      every ten pages, there will be a  
24      page that has an ad.

1                   MR. JANUSH: Thank you for  
2                   that clarification.

3                   MS. STRONG: From a  
4                   technical issue here, my screen  
5                   just went through the password  
6                   screen. Can we take a moment to  
7                   fix that? Thank you. Go off the  
8                   record.

9                   THE VIDEOGRAPHER: We are  
10                  now going off the record, and the  
11                  time is 10:09 a.m.

12                  (Short break.)

13                  THE VIDEOGRAPHER: We are  
14                  now going back on the record. And  
15                  the time is 10:18 a.m.

16 BY MR. JANUSH:

17                  Q. Earlier I had represented  
18                  that this budget spreadsheet came from  
19                  your personal custodial file. It  
20                  actually -- I was corrected, it actually  
21                  came from the Nucynta SharePoint  
22                  custodial file production. And that I  
23                  have a separate similar spreadsheet that  
24                  came from your custodial file that I'll

1 present to you.

2 A. Okay.

3 Q. With respect to this Nucynta  
4 SharePoint custodial file, that is  
5 something you would have had routine  
6 access to; is that right?

7 A. Yes.

8 MS. STRONG: Objection to  
9 form.

10 BY MR. JANUSH:

11 Q. And do you recall generally  
12 that as Nucynta was close -- Nucynta was  
13 closer -- or Janssen was closer to  
14 launching Nucynta ER in 2012, would have  
15 been just not that far after the launch;  
16 is that right?

17 A. I joined the team after  
18 Nucynta ER had already been launched.

19 Q. Right. But 2012 was real --  
20 it was launched in '11, right?

21 A. I don't recall exactly. I  
22 joined late 2011. It was already in the  
23 marketplace.

24 Q. Do you recall generally



1     whether a budget of around \$21.8 million  
2     sounds like -- seems like the actual  
3     budget for Nucynta at that time?

4                   MS. STRONG:  Objection to  
5     form.

6                   THE WITNESS:  I mean I'm  
7     seeing it on paper.  But to be  
8     honest, I don't -- I don't recall.

9     BY MR. JANUSH:

10            Q.     You just don't recall one  
11     way or the other; is that right?

12            A.     I -- yeah, I don't recall  
13     one way or the other.

14            Q.     Okay.  I'm going to  
15     represent to you that on our computer  
16     working through this actual Excel file,  
17     we -- we filtered for your name to just  
18     pull out the items that you were  
19     associated with owning.

20            A.     Okay.

21            Q.     And we came up with a total  
22     sub budget allocated to you --

23            A.     Okay.

24            Q.     -- of \$2.1 million of the

1 total listed budget of 21.8.

2 Would 10 percent of the  
3 total budget attributed to you seem about  
4 right in your estimation?

5 MS. STRONG: Objection to  
6 form.

7 THE WITNESS: I can't -- I  
8 can't even comment one way or the  
9 other.

10 BY MR. JANUSH:

11 Q. You don't -- you don't  
12 remember what portion of the budget you  
13 were responsible for?

14 MS. STRONG: Objection to  
15 form.

16 THE WITNESS: I don't  
17 remember. No. I never looked at  
18 it that way.

19 BY MR. JANUSH:

20 Q. Okay. You never analyzed  
21 how much total dollars you were being  
22 tasked with overseeing?

23 A. No, it's not --

24 MS. STRONG: Objection to

1 form.

2 THE WITNESS: -- it's not a  
3 way that I would have looked at  
4 it.

5 BY MR. JANUSH:

6 Q. Okay. How would you have  
7 looked at it?

8 MS. STRONG: Objection to  
9 form.

10 THE WITNESS: I would look  
11 at it in terms of what projects I  
12 was responsible for. And what,  
13 you know, what budget was required  
14 to make those projects happen.

15 BY MR. JANUSH:

16 Q. Okay. And let's -- let's  
17 keep going quickly. I'll try and rip  
18 through this with you, but projects that  
19 you were responsible for.

20 We started with the -- the  
21 MediScript pads. And under MediScript  
22 pads, it looks like there was a six-month  
23 pad program from March through August.  
24 Do you see that?

1 A. I see it.

2 Q. And it looks like that was  
3 budgeted for 295,468. Do you see that?

4 A. I see the number.

5 Q. And it looks like it was  
6 actually invoiced at that number as well.  
7 Do you see that?

8 A. I see it in the invoice  
9 column, yes.

10 Q. Okay. And moving on from  
11 there, it looks like there was a  
12 four-month pad program. Would that be  
13 similar to what you -- you described  
14 above in terms of prescription pads with  
15 advertisements interspersed?

16 A. Yeah. It would be similar  
17 to that. Mm-hmm.

18 Q. Okay. And this one shows a  
19 budget of -- shows an invoice amount,  
20 excuse me, of \$200,437. Do you see that?

21 A. I see the number.

22 Q. Okay. And as you sit here  
23 today, you don't know whether that's a  
24 real invoice that was actually paid as

1     opposed to whether it's just an invoice  
2     with a number; is that right?

3             A.     Yeah, correct. I don't  
4     know.

5             Q.     Okay. But you were -- do  
6     you recall whether you were responsible  
7     for this six-month pad program and the  
8     four-month pad program?

9             A.     I don't recall that  
10    specifically, in terms of a six-month  
11    program or the four-month program. I  
12    recall working on the MediScript  
13    prescription pad in general.

14            Q.     Okay.

15            A.     And, you know, I recall we  
16    went back and forth in terms of what we  
17    want to do, what we committed to doing,  
18    what changes we had to make along the  
19    way. So...

20            Q.     Moving onto digital media  
21    online banners. Says there's a -- looks  
22    like there's a total budget allocation of  
23    \$1.4 million for digital media  
24    advertising. So here you are listed as

1 an owner for the topic of digital media  
2 online banners. Were you the owner in  
3 control of or the person most responsible  
4 for digital media online banner  
5 advertising?

6 MS. STRONG: Objection to  
7 form.

8 THE WITNESS: I was  
9 responsible for digital media as  
10 part of, you know, one of the  
11 responsibilities I had. I assume  
12 it was during that 2012 period.

13 BY MR. JANUSH:

14 Q. And what did those  
15 responsibilities entail?

16 A. To use digital as a way to,  
17 you know, do online advertising.

18 Q. Okay. And what type of  
19 online advertising would have been  
20 performed?

21 MS. STRONG: Objection to  
22 form.

23 THE WITNESS: I don't recall  
24 what specifically we did. But

1           here it says online banners. So  
2           if that's accurate as to what we  
3           ended up doing, it would be what  
4           we call banner ads.

5                     Do you know what banner ads  
6           are? Like things you would see --

7 BY MR. JANUSH:

8           Q.     Some types --

9           A.     Yeah, things you would see  
10          that pop up online.

11          Q.     And would these banner ads  
12          be specific to the brand you were working  
13          on, Nucynta?

14                    MS. STRONG: Objection to  
15          form.

16                    THE WITNESS: I didn't work  
17          on anything else but Nucynta.

18 BY MR. JANUSH:

19          Q.     So the answer to that is  
20          "yes"?

21          A.     So -- so if -- if I worked  
22          on any ads, it would have been on  
23          Nucynta, yeah.

24          Q.     Okay. And I'm going to skip

1 down to "paid search Razorfish" with an  
2 invoiced amount of \$245,607. Do you see  
3 that?

4 A. Yes.

5 MS. STRONG: Objection to  
6 form.

7 BY MR. JANUSH:

8 Q. Did you work with Razorfish?

9 A. I worked with Razorfish.

10 Q. And who is Razorfish? What  
11 kind of company is Razorfish?

12 A. One of the vendors that we  
13 worked with at -- that specialize in  
14 search engine optimization.

15 Q. So what types of things  
16 would you have been seeking to accomplish  
17 by working with Razorfish?

18 MS. STRONG: Objection to  
19 form.

20 THE WITNESS: I recall one  
21 thing that I worked with them on  
22 was to sort of optimize search  
23 when people were searching for  
24 Nucynta, that it would actually



1           come up, or if they searched for a  
2           related topic, that it would come  
3           up.

4       BY MR. JANUSH:

5           Q.       What kind of a related topic  
6       would you be seeking to have come up with  
7       Nucynta?

8           A.       So it's -- you know, it  
9       involves a lot of different things. So  
10      for example one thing would be opioid, if  
11      someone is searching for opioid or pain  
12      relief, opioid, then Nucynta would be  
13      part of that consideration set.

14          Q.       And moving to the next page.  
15      The middle of the page, you're listed as  
16      being the owner for a topic called  
17      "evaluate patient strategy."

18                  Do you see that?

19          A.       Mm-hmm.

20          Q.       Were you the owner of this  
21      topic, evaluating patient strategy?

22          A.       I was tasked to evaluate  
23      patient strategy.

24          Q.       What does it mean to

1 evaluate patient strategy?

2 A. It means at the time I was  
3 asked to think about what if anything we  
4 should do with regard to educating  
5 patient about Nucynta ER. That was the  
6 task.

7 Q. And what if anything was  
8 done?

9 A. So I did an evaluation  
10 using, you know, sort of typical  
11 marketing framework, thinking about what  
12 the needs are. And how we could meet  
13 those needs. And I presented the  
14 recommendation to, you know, management  
15 at the time.

16 I don't recall recommending  
17 a whole lot given, you know, the sort of  
18 lack of budget to work on things. And so  
19 it was a pretty small portion of what I  
20 did.

21 Q. Okay. And in fact, when we  
22 look to the right, we actually don't see  
23 dollars associated with "evaluate patient  
24 strategy."

1 Does that surprise you or --

2 MS. STRONG: Objection to

3 form.

4 BY MR. JANUSH:

5 Q. -- or does that support the

6 notion that you didn't do much with

7 respect to direct patient strategy?

8 MS. STRONG: Objection to

9 form.

10 THE WITNESS: Again, to what

11 I was saying before, this is kind

12 of like a live document. At that

13 time of the capture, it seems like

14 there was no budget allocated.

15 BY MR. JANUSH:

16 Q. Okay. I know -- I know that

17 you're saying it's a live document, and

18 at that time concerning, you know, the

19 capture, but I believe that this is a

20 year-end reflection after many invoices

21 had come in, in terms of where your

22 business was.

23 You have no way of assessing

24 that one way or the other looking at

1     this, with all the experience you have on  
2     the brand team, looking at what invoicing  
3     and purchase orders means and has meant  
4     historically at Janssen to the budget  
5     process?

6                   MS. STRONG:  Objection to  
7                   form.  And just generally  
8                   speaking, it seems, Mr. Janush,  
9                   that you're attempting to testify  
10                  to a lot of things that have not  
11                  been testified to by Ms. Burns.

12                  MR. JANUSH:  I'm actually  
13                  asking a question.

14     BY MR. JANUSH:

15                  Q.     I'm asking if you have no  
16     way of assessing that one way or the  
17     other looking at this with all the  
18     experience you have on the brand team,  
19     looking at what invoicing historically at  
20     Janssen, you know, occurred within the  
21     budget process?

22                   MS. STRONG:  Objection to  
23                   form.

24                   THE WITNESS:  So with much

1           experience with Janssen and the  
2           way things work with the budget,  
3           that's exactly why I cannot make  
4           those conclusions. Because this  
5           would be something that would be  
6           updated on a regular basis. It  
7           could be updated weekly, biweekly,  
8           monthly.

9                        So, and I relied on  
10           information from several sources  
11           as well. So this is a sort of a  
12           gut check documentation about  
13           where we are. So because I have  
14           that experience it is -- that's  
15           why I'm reluctant to make any  
16           conclusions about a snapshot in  
17           time.

18   BY MR. JANUSH:

19                Q.     What would be the document  
20           that you would be looking for? Is there  
21           a particular date and time that you'd be  
22           looking for to have more comfort that  
23           you've been presented with, as an  
24           example, a year-end or an accurate budget

1 summary as of the date it was printed?

2 MS. STRONG: Objection to  
3 form.

4 BY MR. JANUSH:

5 Q. In other words, if a  
6 document is printed as of a given date,  
7 and it shows invoiced amounts and  
8 purchase order amounts, what would you be  
9 looking for within the document to  
10 confirm that something was actually paid?

11 MS. STRONG: Objection to  
12 form.

13 THE WITNESS: So if I'm  
14 looking to understand what was  
15 actually paid, I would go to  
16 accounts payable, and I would ask  
17 them for their record of what was  
18 paid. That's the only true way of  
19 knowing that something happened  
20 because they pay the vendors.

21 So this is -- this is --  
22 marketing track is just for our  
23 own sort of understanding of where  
24 we are. But truly only the

1 finance folks, accounts payable,  
2 would have the correct  
3 information.

4 BY MR. JANUSH:

5 Q. So if I wanted to obtain,  
6 outside of the Nucynta SharePoint, the  
7 best budget information concerning what  
8 was invoiced and what was actually paid  
9 for the Nucynta brand team for 2012, I  
10 would go to the finance folks at Janssen?

11 A. I would say the finance  
12 folks have the most accurate information.

13 Q. Okay. Incidentally, just as  
14 a preliminary matter, going back to the  
15 start of the deposition, I didn't ask you  
16 a couple of fundamental questions that I  
17 wanted to go over. Today, who do you  
18 work for?

19 A. Quest Diagnostics.

20 Q. Okay. And what do you do  
21 for Quest Diagnostics?

22 A. I'm a director of marketing  
23 for one of the tests that we sell.

24 Q. Okay. And what is that

1 test?

2 A. Well, the franchise is  
3 called Prescription Drug Monitoring. So  
4 it's urine drug testing for the most part  
5 in layman's term.

6 Q. Okay. So you're a -- did  
7 you say marketing director?

8 A. Director of marketing, yeah.  
9 Marketing.

10 Q. For a urine drug testing  
11 company?

12 MS. STRONG: Objection to  
13 form.

14 BY MR. JANUSH:

15 Q. Or a product that tests  
16 urine for -- is it for, like, illicit  
17 drugs?

18 A. So my employer -- my  
19 employer --

20 MS. STRONG: Objection.

21 Give me a moment to object.

22 THE WITNESS: I'm sorry.

23 MS. STRONG: Objection to  
24 form.



1                   Go ahead.

2                   THE WITNESS:   So, my  
3                   employer is Quest Diagnostics.  
4                   It's a diagnostics company. They  
5                   take a lot of, you know, like  
6                   lab --

7   BY MR. JANUSH:

8                   Q.       Sure.

9                   A.       -- lab testing.

10                  Q.       And your -- the specific  
11                  product that you're associated with is a  
12                  urine drug test?

13                  A.       Yes.

14                  Q.       And what kinds of things  
15                  does this test for?

16                  A.       A lot of different things.  
17                  But it tests for prescription drugs or  
18                  illicit drugs.

19                  Q.       Okay. When did you learn  
20                  that you were going to be a witness in  
21                  this case?

22                             MS. STRONG:  Objection to  
23                             form.

24                             THE WITNESS:  When did I

1           learn that I was going to be a  
2           witness in this case? I want to  
3           say a few months ago. A couple  
4           months ago.

5       BY MR. JANUSH:

6           Q.     And without getting into  
7           specific discussions, who first reached  
8           out to you?

9           A.     Who first reached out to me?  
10          I believe it was a gentleman named Tad.

11          Q.     Tad Allan?

12          A.     Yeah, I think so.

13          Q.     Did you have an opportunity  
14          to prepare for this deposition with  
15          attorneys?

16          A.     Yes.

17          Q.     On how many different  
18          occasions?

19          A.     I think three or four.

20          Q.     And starting when?

21          A.     This is end of November, so  
22          I think maybe six weeks ago.

23          Q.     Okay. And was six weeks ago  
24          the first preparation session that you

1 would have had?

2 A. Correct.

3 Q. And about how many -- did  
4 that last for a full day?

5 A. I think we met maybe a  
6 couple of days.

7 Q. Okay. And over -- were they  
8 full day sessions -- meeting sessions?  
9 How many hours would you say?

10 A. Like, we might start at 9:00  
11 and go until 3:00, 4:00. I don't know.

12 Q. And where did you meet?

13 A. The first time we met on  
14 Janssen property.

15 Q. In New Jersey?

16 A. In New Jersey.

17 Q. Okay. Were you flown out to  
18 New Jersey?

19 A. No. I was living in  
20 Pennsylvania at the time, and that was  
21 close. It was a close location.

22 Q. Sure. Were you paid for  
23 your time?

24 A. No.

1 Q. Okay. And who did you meet  
2 with?

3 A. I met with Tad and Mike.  
4 Tad and Mike.

5 Q. Do you know Mike's last  
6 name?

7 A. I don't recall his last  
8 name.

9 Q. Okay. And so the first time  
10 that you met to prepare for your  
11 deposition occurred over a two-day period  
12 in New Jersey on Janssen property; is  
13 that right?

14 A. That is correct.

15 Q. When was the second time  
16 that you met to prepare for your  
17 deposition?

18 A. With -- I believe it was a  
19 two-day session. So if you call that a  
20 second time, it was like the next day.  
21 It was a long time ago. So it might have  
22 been like a day in between or something  
23 like that, based on the schedule.

24 Q. And that was also with Tad?

1           A.     Yes.  Tad and Mike, I  
2     believe.

3           Q.     And was -- let's go to the  
4     third deposition preparation session.  
5     When was that?

6           A.     I think there was like a  
7     one-month gap in between, and then we met  
8     on Janssen property.

9           Q.     And were you living in  
10    Pennsylvania then too?

11          A.     Yes.

12          Q.     Okay.  And who did you meet  
13    with then?

14          A.     I think it was -- I think it  
15    was Mike and Sabrina.

16          Q.     And how long was that third  
17    preparation session?

18          A.     I think similar.  Similar  
19    to --

20          Q.     So start 9:00 a.m. to 3:00  
21    or 4:00 p.m.?

22          A.     Mm-hmm.  With like breaks  
23    and lunch and stuff.

24          Q.     And was there a fourth

1 session?

2 A. Yes.

3 Q. When was that?

4 A. Last week here in Vermont.

5 Q. And who did you meet with

6 last week here in Vermont?

7 A. Sabrina.

8 Q. Where did you meet in

9 Vermont with Sabrina?

10 A. Here, at this location.

11 Q. Here? Okay. And how long

12 was that session?

13 A. Similar. Similar to the

14 other ones.

15 Q. So again, like 9:00 a.m. to

16 3:00 or 4:00 p.m.?

17 A. Something like that, yeah.

18 Q. And during any of these

19 sessions were you shown documents?

20 MS. STRONG: Again, I'd like

21 to object to the extent this is

22 going to get into attorney/client

23 privilege communications. I'd

24 instruct her not to answer.

1 MR. JANUSH: She is  
2 permitted to say whether she was  
3 shown documents.

4 MS. STRONG: Right. But I  
5 don't want to get into the content  
6 of any materials.

7 MR. JANUSH: I won't.

8 MS. STRONG: But generally  
9 speaking, that's fine.

10 THE WITNESS: Yeah, I --

11 MR. JANUSH: It would be  
12 unethical to do that. I won't --

13 THE WITNESS: I've been  
14 shown some documents, yes.

15 BY MR. JANUSH:

16 Q. Okay. About how many  
17 documents were you shown?

18 MS. STRONG: Again --

19 THE WITNESS: I don't know.

20 MR. JANUSH: I'm not getting  
21 into content.

22 MS. STRONG: I just think  
23 we're getting close to the line  
24 here.

1                   MR. JANUSH: I'm allowed to  
2                   ask this question.

3                   THE WITNESS: You know, I  
4                   don't know. Several. And  
5                   sometimes, you know, it's not --  
6                   not -- it could be like partial of  
7                   something. So I don't recall how  
8                   many.

9       BY MR. JANUSH:

10                  Q.     More than ten?

11                  A.     Again, I don't --

12                  MS. STRONG: Excuse me.  
13                  Just a moment.

14                  MR. JANUSH: This is an  
15                  absolutely appropriate line of  
16                  questions.

17                  MS. STRONG: The number  
18                  of -- the number of documents  
19                  shown to the witness I do not  
20                  believe is appropriate. I think  
21                  we're getting into --

22                  MR. JANUSH: It's absolutely  
23                  not a privileged issue. I'm not  
24                  asking about content, I'm not



1 asking subject matter. I'm just  
2 asking the number of documents  
3 that --

4 MS. STRONG: Just ask --

5 MR. JANUSH: And you're  
6 giving a speaking objections.  
7 That is in violation of the  
8 deposition protocol.

9 MS. STRONG: Well, I think,  
10 like I said, we're talking about  
11 attorney/client privilege  
12 communications. And I just want  
13 to make sure --

14 MR. JANUSH: We can call  
15 Special Master Cohen on this. I'm  
16 guaranteeing that he's going to  
17 agree with me that -- that the  
18 number of documents a witness is  
19 shown is not privileged  
20 communication. And I'm sure,  
21 based on what I heard on  
22 November 20th, that Judge Polster  
23 would agree.

24 MS. STRONG: Look, we don't

1           have to get into an argument over  
2           this. I don't -- go ahead and  
3           answer the question the best you  
4           can.

5                     But again, please do  
6           caution -- I caution you not to  
7           speak to the contents of the  
8           communications --

9                     MR. JANUSH: Nor am I --  
10          again, I'm too ethical to ask you  
11          the contents of the documents.  
12          You won't hear that question from  
13          me.

14                    THE WITNESS: I think it  
15          depends on how you define a  
16          document. Is one document multi  
17          pages, is that one document, or is  
18          each page, you know, a document.  
19          So I don't know how you're  
20          classifying it.

21       BY MR. JANUSH:

22                    Q.     Sure. I'll help you there.

23                    A.     Maybe ten.

24                    Q.     I'm -- I'm talking about,

1     you know, like -- multi-page documents  
2     can qualify as a single document.

3             A.     Yeah, maybe, maybe ten.

4             Q.     Thank you.

5             A.     Mm-hmm.

6             Q.     I'm going to have you flip  
7     forward to -- let's see. I'm going to  
8     put it up on the Elmo to see if you can  
9     track me. Since we don't have page  
10    numbers. The print is -- the cell file  
11    is so large.

12            I've gone down to the cycle  
13    meetings, it's in the middle of the page.  
14    And actually there is a highlighted line  
15    that you'll see -- yes, you are on the  
16    right page. And I'm going to ask  
17    Ms. Strong to either share the document  
18    with you or look at the Elmo. I'm going  
19    to present it on the Elmo so that  
20    Ms. Strong can see it as well. Do you  
21    see that?

22            I'm going to put my fingers  
23    around, boxing around the area that I'm  
24    focusing on.

1 MR. JANUSH: Do you see  
2 that, Ms. Strong?

3 MS. STRONG: Yes.

4 BY MR. JANUSH:

5 Q. Okay. So I'm specifically  
6 focusing on cycle meetings, presentation,  
7 support videos, customer/patient panels,  
8 speech writing, printing materials, et  
9 cetera. Do you see that? I'm going to  
10 circle it.

11 A. I see it.

12 Q. Okay. And it looks like  
13 your name is under owner for Danny cycle  
14 one support. Do you know what that  
15 means?

16 A. Mm-hmm.

17 Q. What does that mean?

18 A. Danny is a consultant. I  
19 don't remember his last name. He is kind  
20 of like a presentation coach.

21 Q. Okay. And going to the next  
22 section that's highlighted, not by me,  
23 but in the document. It says, "Pain  
24 specialists consultants, 18, at regional

1 cycle meeting. Owner, Kanitha Burns."

2 And then it looks like that  
3 there's an invoiced amount of \$26,456 and  
4 then a, in the red, a total PO of  
5 \$31,435.

6 What would it mean to  
7 have -- to have an initial invoiced  
8 amount and then have a number that's  
9 highlighted in red on budget sheets, if  
10 you know?

11 A. I don't know why this would  
12 have been highlighted red.

13 Q. Okay. Could it be  
14 because -- because this item went over  
15 budget and so it was in the red?

16 MS. STRONG: Objection to  
17 form.

18 THE WITNESS: It doesn't  
19 look like it went over budget.

20 BY MR. JANUSH:

21 Q. Well --

22 A. According to this, it's --

23 Q. Well, the budget, if I  
24 circle it for you, I'm looking at, is out

1 of the \$21.8 million, it looks like  
2 \$26,456 is budgeted. Do you see that?

3 MS. STRONG: Objection to  
4 form.

5 THE WITNESS: I see what  
6 you're pointing to, yes.

7 BY MR. JANUSH:

8 Q. Okay. And then the total  
9 PO, that would be total purchase order,  
10 right?

11 A. That's, that's what it seems  
12 to indicate.

13 Q. Is listed at \$31,436 in red,  
14 right?

15 A. I see it in red.

16 Q. Okay. So that wouldn't  
17 indicate that -- that this was slightly  
18 over budget?

19 A. So this is why I go back --

20 Q. If these numbers were  
21 accurate. Let me restate.

22 A. Yeah. So this is why I go  
23 back to -- I -- this is a working  
24 document and things could have been

1 changed for the purpose of, you know,  
2 evaluating where we are, what needs to be  
3 changed. So this is why it's -- I think  
4 it's really hard to interpret, because as  
5 you can see, many columns represent many  
6 things and probably different scenarios.

7 So for instance, the  
8 original -- the budget, the JU budget was  
9 34,380. And you see the PO was open for  
10 31,436, already they don't match. Then  
11 the invoice is 26,456, which shows  
12 hypothetically that at that time that  
13 much has been invoiced.

14 Q. So --

15 A. So, like, I'm not sure what  
16 was the final approved budget for that  
17 particular item.

18 Q. Got it.

19 A. At that point in time.

20 Q. Let's just --

21 A. So I'm just trying to --

22 Q. Yeah, and I'm going to try  
23 and help -- I'm going to try and help a  
24 little bit since I've read -- maybe I've

1 read this document more than you more  
2 recently.

3 A. Okay.

4 Q. It looks like there's an  
5 original June budget of 23.5 here. It  
6 looks like there was an imperative at the  
7 company to cut from that budget  
8 \$1.7 million to get to a 21.8 total  
9 actual budget. Do you see that?

10 MS. STRONG: Objection to  
11 form.

12 THE WITNESS: I see what  
13 you're saying.

14 BY MR. JANUSH:

15 Q. Okay. And then so -- so  
16 the -- isn't it -- is it possible, just  
17 asking, is it possible that that June  
18 budget you were looking at and referring  
19 to, this not being over budget, was  
20 actually cut when the marketing team was  
21 asked to take out 600 K from their  
22 allocation?

23 MS. STRONG: Objection.

24 BY MR. JANUSH:



1 Q. See this -- this box here?

2 I'm just saying is it possible. That's  
3 all I'm asking.

4 MS. STRONG: Okay. And  
5 there's two different questions:  
6 Is it possible or do you see it.  
7 Which is the one you'd like her to  
8 answer?

9 BY MR. JANUSH:

10 Q. First you see the 600 K  
11 reduction box?

12 A. I see the column.

13 Q. Okay. Is it possible that  
14 in order to make it to \$21.8 million,  
15 that that June budget got reduced by your  
16 marketing team?

17 A. Is it possible that it was  
18 reduced? It's possible that's under  
19 consideration.

20 Q. Okay.

21 A. And that's a scenario that  
22 we would run.

23 Q. Let's --

24 A. I guess I'm -- I'm sorry, I

1 really want to be helpful. But I'm not  
2 sure what you're looking for.

3 Q. Well, I was just --

4 A. If you can tell me what  
5 you're looking for, I think I can better  
6 answer.

7 Q. We're -- we're fussing over  
8 the accuracy of a budget that -- that --

9 A. Right.

10 Q. So I'm going to skip that  
11 and more onto something more substantive.

12 A. Okay.

13 Q. What is the pain specialist  
14 consultant's line item with 18 in  
15 parentheses at regional cycle meeting?  
16 There's -- is that concerning having 18  
17 consultants at a regional meeting?

18 MS. STRONG: Objection to  
19 form.

20 THE WITNESS: I don't know  
21 what the 18 represents. I don't  
22 recall that number. So I don't  
23 know what that would have meant.

24 BY MR. JANUSH:

1           Q.     Is it referring to have pain  
2     specialist consultants at a regional  
3     cycle meeting?

4           A.     I don't -- so I'm -- I'm  
5     just seeing the words, but I don't  
6     recall. Like I can't picture what that  
7     is. But it's possible that we were  
8     considering having pain specialists in  
9     some form of consultation for the purpose  
10    of a regional cycle meeting.

11          Q.     Got it.

12          A.     But I don't know, like, what  
13    that would have been. I don't recall.

14          Q.     Okay. Were you -- were you  
15    involved in the rebate program on behalf  
16    of Nucynta?

17          A.     No.

18          Q.     Not at all?

19          A.     Not my responsibility.

20          Q.     So I'm going to have you  
21    list each of your key oversight or  
22    managerial responsibilities when you  
23    worked on Nucynta.

24          A.     For the entire three years?

1           Q.     Yeah. The key oversight  
2     responsibilities.

3                   MS. STRONG: Objection to  
4     form.

5                   THE WITNESS: Professional  
6     marketing, digital -- digital  
7     advertising and just in general  
8     advertising, search engine  
9     optimization.

10                  And again, this is, like,  
11     things that I've worked on. It's  
12     not telling how long I worked on  
13     them. You know, during the  
14     three-year period, because  
15     responsibility shifted. So just  
16     to be clear.

17                  I worked on the website a  
18     little bit. I worked on sales  
19     meetings. Those are the things  
20     that come to mind, big ones.

21     BY MR. JANUSH:

22                  Q.     Did you work on sales  
23     incentive compensation?

24                  A.     It was not my

1 responsibility.

2 Q. Sales incentive  
3 compensation.

4 Okay. Did you work on key  
5 opinion leader development?

6 MS. STRONG: Objection.  
7 Form.

8 THE WITNESS: So let me  
9 just -- I want to make sure that  
10 we're clear. When you say "did I  
11 work on," what do you -- can you  
12 clarify what that -- what that  
13 means.

14 BY MR. JANUSH:

15 Q. Well, I'm going to -- I'm  
16 going to ask you that. What role did you  
17 have, if any, with regard to developing  
18 or hiring key opinion leaders?

19 MS. STRONG: Objection to  
20 form.

21 THE WITNESS: It was not my  
22 responsibility.

23 BY MR. JANUSH:

24 Q. Okay. Did you have any

1 responsibility to allocate budgets to --  
2 for key opinion leaders to speak  
3 regionally or nationally?

4 A. No. It's not mine.

5 Q. No responsibility to  
6 allocate budgets for -- we'll call them  
7 KOLs --

8 A. Sure.

9 Q. -- to speak regionally --  
10 regionally or nationally. Okay.

11 How about advisory boards?  
12 Did you have any responsibility with  
13 regard to allocating budgets for advisory  
14 board participants?

15 A. No.

16 Q. Earlier I had shown you your  
17 LinkedIn document and marked it as  
18 Exhibit 1. And in it, you wrote that  
19 you -- optimizing -- you were involved in  
20 optimizing customer target and sales  
21 incentive compensation.

22 Moments ago, I asked you  
23 whether you were involved in sales  
24 incentive compensation, and you wrote

1 "not my responsibility."

2 Which is correct, your  
3 LinkedIn profile or your testimony today?

4 MS. STRONG: Objection to  
5 form.

6 THE WITNESS: So this is why  
7 I asked you what you meant by  
8 working on certain things. So the  
9 way things work, at least at the  
10 time -- well, I would say in  
11 general too. I was responsible  
12 for certain things, and I, you  
13 know, testified as such in terms  
14 of what things I was responsible  
15 for.

16 But there are certain things  
17 that I was involved in discussions  
18 and had input, but technically not  
19 my responsibility. Does that make  
20 sense?

21 So because it's a very  
22 matrix organization, a lot of  
23 people are involved in, you know,  
24 multiple conversations. And just

1           because you don't have technical  
2           responsibility doesn't mean you  
3           don't, you know, hear about, or  
4           you talk about or you have input  
5           on.

6                     So that's why I want it to  
7           be very clear in delineating,  
8           like, exact responsibility or not.

9   BY MR. JANUSH:

10           Q.     Thank you. But I'm not sure  
11           that answered my question. My question  
12           was that -- I asked you whether you were  
13           involved with sales incentive  
14           compensation, and you said quote, "Not my  
15           responsibility."

16           A.     Which is accurate. But it's  
17           not my responsibility.

18           Q.     And yet, on -- so what  
19           you're saying is, although you weren't  
20           responsible for it, now you're saying --  
21           are you saying now that you were involved  
22           in it?

23                     MS. STRONG: Objection to  
24           form.



1 BY MR. JANUSH:

2 Q. In other words, I didn't ask  
3 you, you know, whether you were  
4 responsible for that. I'm asking you  
5 were you involved in sales incentive  
6 compensation?

7 A. Oh, okay.

8 MS. STRONG: Objection to  
9 form.

10 Go ahead.

11 THE WITNESS: All right. So  
12 it depends on, like, you know,  
13 what you mean by that.

14 So there was some incentive  
15 compensation discussions that  
16 happened that, you know, my  
17 knowledge had to do with incentive  
18 compensation for the Quintile  
19 sales team, the reduced size sales  
20 team.

21 So I was not responsible for  
22 it. But I was in the room for  
23 some of the discussions, you know,  
24 at different parts. So I would

1 say that's involvement.

2 BY MR. JANUSH:

3 Q. So where I'm highlighting on  
4 your LinkedIn profile, "Sales incentive  
5 compensation," you were in the room for  
6 some discussions concerning Quintiles  
7 sales representatives?

8 A. Representatives.

9 Q. Okay. All right. And you  
10 have made a point of differentiating  
11 between working with people who also had  
12 responsibilities as opposed to whether  
13 you had primary responsibility.

14 A. Yes.

15 Q. And that's a fair summary on  
16 my part, right?

17 MS. STRONG: Objection to  
18 form.

19 THE WITNESS: Well, I want  
20 to be as accurate in my answer as  
21 possible. So you asked me to list  
22 my responsibilities. And so I  
23 did.

24 BY MR. JANUSH:

1 Q. Got it. Okay. Were you  
2 responsible for turning around the  
3 Nucynta molecule business?

4 MS. STRONG: Objection to  
5 form.

6 THE WITNESS: Our team --  
7 our marketing team, and together  
8 with the sales team, our goal was  
9 to turn around the business. It  
10 wasn't performing well, and that's  
11 our job, is to do that.

12 BY MR. JANUSH:

13 Q. So on this profile, that's  
14 for you, not your marketing team, right?  
15 This is individual to you, correct?

16 A. Correct.

17 Q. You listed, "Turned around  
18 the Nucynta molecule business," didn't  
19 you?

20 A. Yes.

21 Q. Did you mean to say it was  
22 part of a team that turned around the  
23 Nucynta molecule business?

24 MS. STRONG: Objection to

1 form.

2 THE WITNESS: I meant -- I  
3 don't know what you mean by did I  
4 mean to say. That's what I said,  
5 is I contributed to turning around  
6 the business.

7 BY MR. JANUSH:

8 Q. Okay. And you next wrote,  
9 revitalized all elements of marketing  
10 including delivering more relevant market  
11 insights. Do you see that?

12 A. I do.

13 Q. How did you revitalize all  
14 elements of marketing?

15 A. So that is referring to the  
16 fact that when I joined the team and I  
17 was responsible for professional  
18 marketing, as stated before, we uncovered  
19 some insights. We made changes to the  
20 marketing messages and the marketing  
21 material. And so when, you know, we  
22 revitalize all elements of marketing,  
23 that means the different -- different  
24 pieces of educational material or sales

1 material were updated with, you know,  
2 whatever the message was. That's what it  
3 means.

4 Q. What were the -- what were  
5 the insights that you uncovered?

6 MS. STRONG: Objection to  
7 form.

8 THE WITNESS: There were,  
9 you know, sort of -- I don't  
10 recall all of them. But there  
11 were some, you know, pretty key  
12 things that we understood.

13 Would you like me to give  
14 you one insight?

15 Okay. One insight was that  
16 the prescribers were not  
17 prescribing Nucynta ER correctly  
18 according to the doses that were  
19 studied in the clinical trial.

20 They didn't understand the  
21 dosing of the product and were not  
22 achieving, you know, the results  
23 that were represented in the  
24 clinical results from our study,

1           because of the incorrect dosing.

2       BY MR. JANUSH:

3           Q.     Are you referring to the  
4       lower back pain study?

5           A.     Well, the lower back pain  
6       study was one of the, you know -- was one  
7       of the studies that's in the package  
8       insert, yeah. Mm-hmm.

9           Q.     Is that the -- which study  
10      are you referring to when you say the  
11      prescribers were not prescribing --

12          A.     Yeah, predominately the low  
13      back pain study.

14          Q.     Okay. In the second bullet,  
15      as compared with the first, you used  
16      different language such as "partnered  
17      with sales leadership to develop  
18      actionable sales strategy and direction."

19                  Do you see that?

20          A.     I do.

21          Q.     You didn't use words like  
22      "partnered with" anyone in the first  
23      bullet; is that right?

24          A.     Apparently, yes. Mm-hmm.

1 Q. Okay. How did you -- let's  
2 talk about how you partnered with sales  
3 leadership to develop actionable sales  
4 strategy and direction.

5 A. Okay.

6 MS. STRONG: Objection to  
7 form.

8 What's the question?

9 BY MR. JANUSH:

10 Q. How did you partner with  
11 sales leadership to develop actionable  
12 sales strategy and direction?

13 A. You know, that covers a lot  
14 of --

15 MS. STRONG: Objection to  
16 form.

17 THE WITNESS: -- a lot of  
18 different things. I mean, it's a  
19 capture of, you know, interaction  
20 over two years. So -- I don't  
21 know how to explain it because  
22 there's just so many different  
23 things that we did.

24 I mean, do you want me to

1           just give an example of one way of  
2           partnering with them?

3   BY MR. JANUSH:

4           Q.     I mean, this is -- this is  
5           essentially your resumé, not mine, so I'm  
6           asking you to explain it.

7           A.     Yeah, and I'm also -- I'm  
8           trying to see, you know, like what it is  
9           you want to understand. Because, you  
10          know, resumé's are for people who are  
11          hiring people who would understand a lot  
12          of these things, so...

13          Q.     Pretend I'll understand a  
14          lot of these things. I want you to  
15          explain it the best you can.

16          A.     Okay. So partnering with  
17          sales leadership means that, you know, I  
18          didn't -- it's intended to convey that  
19          marketing, like myself, wasn't always  
20          directive and demanding that they do  
21          certain things. Partnership refers to  
22          consultation. It talks about, okay, here  
23          is what we're trying to achieve. What do  
24          you think would be the best way to



1     achieve it. If we had to, you know, tell  
2     the sales representatives to deliver our  
3     particular message to educate the  
4     clinicians, well, how do you think is the  
5     best way for us to get them to do that.  
6     How do we motivate them to do that. If  
7     we, you know, wanted to kind of, you  
8     know, emphasize the dosing issue that we  
9     have in the marketplace, when should we  
10    do that, how should we do that. That's  
11    what I mean by partnering with them on  
12    how to, you know, deliver what we want  
13    the sales representatives to do in the  
14    most effective way.

15           Q.     And moving onto the next  
16    statement, "Equip and train specialty  
17    sales team with resources to maximize  
18    impact and deliver on financial  
19    commitment."

20                   What does that mean?

21           A.     Okay. That's -- that's a  
22    lot in there. So, equip and train. So  
23    let me just kind of like break it down  
24    because there's a lot in there, right.

1                   So equip and train means I  
2   was responsible for equipping them with  
3   sales tools. So I was responsible for  
4   professional marketing which includes  
5   developing sales tools.

6                   So equipping them means I'm  
7   developing sales tools that they can use  
8   for the purpose of educating clinicians  
9   about the benefits and the profile of  
10   Nucynta ER. Okay. So that's what  
11   equipping mean.

12                  Training them means now that  
13   I have the sales material, I need to give  
14   it to them and make sure they understand  
15   the intent, the objective of what the  
16   material is supposed to do. Make sure  
17   that they don't have any questions that,  
18   you know, that will cause any kind of  
19   confusion about what -- what it says and  
20   how to use it. That's kind of what it's  
21   referring to.

22                  And then -- this is a  
23   multipart question here. Are you good on  
24   that?

1 Q. You can keep going.

2 MS. STRONG: Well, no, I  
3 think there needs to be a question  
4 pending.

5 So to the extent she's tried  
6 to answer the question to the best  
7 of her ability, I think that's  
8 sufficient.

9 He can ask another question.

10 MR. JANUSH: Stop speaking  
11 objections.

12 MS. STRONG: There's no  
13 question pending --

14 MR. JANUSH: The question I  
15 had -- I'll go back to it if I  
16 have to.

17 BY MR. JANUSH:

18 Q. Concerned, in addition to  
19 equipping and training, you addressed  
20 equipping and training with resources,  
21 what does it mean to maximize impact and  
22 deliver on financial commitment?

23 MS. STRONG: Objection to  
24 form.

1                   THE WITNESS: Okay. So I'm  
2                   going to mention the first one.

3                   Maximize impact. Maximize  
4                   impact means that when the sales  
5                   representatives are taking action  
6                   with a customer, that there is  
7                   actually an impact, right.

8                   Because I think you can just  
9                   go through the motions, I show up,  
10                  I clock in from 9 to 5. You know,  
11                  I showed up, and I did my thing.  
12                  And that's not considered  
13                  impactful.

14                  Impactful means they are  
15                  articulate, they are knowledgeable  
16                  and well trained. They speak  
17                  eloquently, clearly. They answer  
18                  questions to the clinicians. And  
19                  they make sure that what they do,  
20                  you know, meets sort of the goal  
21                  of the organization of making sure  
22                  that clinicians know about, you  
23                  know, Nucynta ER, what it's  
24                  indicated for, how to properly use

1           it, answer any questions that they  
2           might have. So that's delivering  
3           with impact.

4       BY MR. JANUSH:

5           Q.     And what does "deliver on  
6           financial commitment" mean?

7           A.     So that means that what --  
8           everything that we're doing is meaningful  
9           and leads to, you know, a growth in sales  
10          of the product to meet the financial  
11          commitment that we made to Janssen of  
12          what Nucynta ER should deliver  
13          financially.

14          Q.     And what was the financial  
15          commitment that you made to Janssen on  
16          what Nucynta ER should deliver  
17          financially?

18                 MS. STRONG: Objection to  
19          form.

20                 THE WITNESS: So every --  
21          you know, just like most  
22          businesses, every year there's a  
23          goal. I don't recall, you know,  
24          over the three years, you know,

1           those numbers fluctuated. I don't  
2           recall what the -- they were. But  
3           there was, you know, every year  
4           there's a number in which that's  
5           the projection.

6       BY MR. JANUSH:

7           Q.     Are we talking about numbers  
8           in the hundreds of millions of dollars?

9                   MS. STRONG: Objection to  
10           form.

11                   THE WITNESS: I -- you know,  
12           I don't recall. In the low  
13           hundred millions, I would say.

14                   (Document marked for  
15           identification as Exhibit  
16           Janssen-Burns-3.)

17       BY MR. JANUSH:

18           Q.     I'm going to hand you what  
19           I've marked as Exhibit 3. It's  
20           JAN-MS-00672183. It's a breakdown of  
21           roles and responsibilities as of February  
22           2013. And you appear in the upper  
23           right-hand corner of this sheet.

24                   Do you see that?

1 A. Mm-hmm.

2 Q. Okay. And it says that your  
3 primary responsibilities are -- involve  
4 messaging HCP materials including iPad.  
5 What is that referring to?

6 A. Which part, the HCP  
7 material?

8 Q. Yes.

9 A. HCP stands for healthcare  
10 professional. So any sales material that  
11 is intended for healthcare professionals.

12 Q. Okay. And including iPad,  
13 is -- is that referring to the electronic  
14 iPad sales resource tool that was  
15 provided to sales representatives?

16 A. Mm-hmm, yeah.

17 Q. Okay. And sales strategy  
18 development, what is that referring to?

19 A. Sales strategy development.  
20 You know, I don't recall what that would  
21 mean.

22 Q. You know, I'm asking you  
23 because, out of the entire marketing  
24 team, pain marketing team, you are the

1     only one that's listed with that primary  
2     responsibility. And as you sit here  
3     today, you don't know what that means?

4                 MS. STRONG: Objection to  
5     form.

6                 THE WITNESS: Yeah, actually  
7     the way it's worded, I don't know  
8     what it was intended to be.

9                 And I also don't know if  
10    this was final because what would  
11    happen is -- I recall seeing a  
12    document like this. You know,  
13    David Lin who is the leader of the  
14    team would propose these  
15    responsibilities and give to us  
16    and say what do you think of this.

17                And as you recall from  
18    earlier, I shared that over the  
19    three-year period I had different  
20    responsibilities because he was  
21    big on making sure that everybody  
22    gets like different experiences  
23    over time. So we don't get bored  
24    and we develop and things like



1           that. So it could have been that  
2           this was what he proposed, but it  
3           wasn't final.

4       BY MR. JANUSH:

5           Q.     You see the words "as of  
6       February 2013" here?

7           A.     Mm-hmm, yeah.

8           Q.     It seems to imply that these  
9       are responsibilities as of a given date,  
10       doesn't it?

11                   MS. STRONG: Objection to  
12       form.

13                   THE WITNESS: It could mean  
14       a lot of different things. It  
15       could be he drafted it  
16       February 2013 for discussion.

17                   You know, I don't know. I'm  
18       not disputing that this is not a  
19       legitimate document. I'm just  
20       saying I don't know at what point,  
21       like was this finalized or -- or  
22       what. That's just one point. But  
23       I don't recall sales strategy  
24       development and what that would

1 mean.

2 BY MR. JANUSH:

3 Q. Do you recall being the  
4 primary person responsible for the  
5 business plan in 2013?

6 A. I recall being responsible  
7 for business plan one of the years. It  
8 could have been 2013, yeah.

9 Q. Do you recall being --

10 A. That rotated as well.

11 Q. Do you recall being  
12 responsible for sales training in 2013?

13 A. Did I do that? I don't -- I  
14 can't say for sure. Because we also have  
15 a sales training department. So that  
16 might just be to be the main liaison with  
17 the sales training department.

18 Q. Okay. And how about with  
19 regard to field communications. Do you  
20 recall being the person responsible for  
21 field communications in 2013?

22 A. Mm-hmm, yeah.

23 Q. What does being responsible  
24 for field communications mean?

1           A.     So field refers to the sales  
2     team.   So field communications would be  
3     communicating to the sales team, like  
4     direction or messages that we would send  
5     them.

6           Q.     Direction or messages, is  
7     that right?

8                   MS. STRONG:   Objection.

9                   Form.

10                   What is the question.

11                   MR. JANUSH:   I wanted to  
12     make sure I got my notes right.

13                   So I'll look at the screen.

14     BY MR. JANUSH:

15           Q.     Okay.   Moving on.   Patient  
16     strategy and execution.   Were you the  
17     primary person responsible in 2013 for  
18     patient strategy and execution?

19           A.     I don't recall the time  
20     period specifically, but I remember, as I  
21     shared with you earlier, that I was  
22     responsible for evaluating, you know,  
23     patient strategy and executing whatever  
24     we, you know, come up with.

1           Q.     Okay. And earlier, just  
2     above that, when we spoke about field  
3     communications, communicating to the  
4     sales team directions or messages, we're  
5     speaking about on a national level,  
6     correct?

7                     MS. STRONG: Objection to  
8     form.

9                     THE WITNESS: Field  
10    communications is all field  
11    communications.

12   BY MR. JANUSH:

13           Q.     So that's a national level,  
14    correct?

15           A.     Well, it could be.

16           Q.     In other words, you were the  
17    primary person responsible for  
18    communicating to sales -- to the sales  
19    team with direction or messages and  
20    that's not unique to, say, New Jersey.  
21    You would have been responsible for the  
22    country; is that correct?

23           A.     Correct.

24           Q.     Okay.

1           A.     But to be clear, I'm not the  
2     only person who can communicate to the  
3     sales team. That's just representing the  
4     marketing, the team.

5           Q.     Understood. On the  
6     marketing team --

7           A.     Yes. Yes.

8           Q.     -- you were the primary  
9     person?

10          A.     Yes. Yes.

11                     (Document marked for  
12                     identification as Exhibit  
13                     Janssen-Burns-4.)

14     BY MR. JANUSH:

15          Q.     I'm going to hand you what  
16     I've marked as Exhibit 4. This is a  
17     PowerPoint. It's got a Bates page that  
18     I've included on the front of it of  
19     JAN-MS-00749778. And this concerns a  
20     Nucynta 2013 business plan overview.

21                     Do you see that?

22          A.     Mm-hmm.

23          Q.     I'm going to have you turn  
24     to page -- let's see. It's hard with

1 pages since -- they don't have page  
2 numbers.

3 A. On the bottom.

4 Q. Page 3. Excuse me. Is it 3  
5 that I want? No. It's Page 4. The  
6 number seems to be cut off on that. And  
7 in the upper left-hand corner it states,  
8 "How do we leverage sales and marketing  
9 resources to grow Nucynta ER  
10 disproportionately within a focused  
11 strategic customer base?"

12 Do you see that?

13 A. I do.

14 Q. What does it mean to grow  
15 Nucynta ER disproportionately within a  
16 focused strategic customer base?

17 MS. STRONG: Objection to  
18 form.

19 THE WITNESS: So first,  
20 before going into here, I do want  
21 to say that I recognize some of  
22 the, you know, the pages here.  
23 But I don't know if this was final  
24 because, you know, we're always

1           working on it, and it lasts for  
2           months, the business process.

3                       So I don't know if this was  
4           the final version, and if it was  
5           the one that was approved by legal  
6           and regulatory. Just as a caveat.

7                       In general, in marketing we  
8           sort of use this term, "grow  
9           disproportionately in area of  
10          focus." It means -- I'm going to  
11          try to best explain this.

12                      It means how do we show more  
13          growth in an area that we focus on  
14          versus areas that we don't focus  
15          on.

16                      So that's what  
17          disproportionately means. So  
18          that -- because marketing is all  
19          about making strategies. You do  
20          this, and you don't do that. So  
21          if you're going to do this, how do  
22          you show impact of growth more so  
23          than over here that you said you  
24          didn't do. So that's what it's

1           trying to say.

2       BY MR. JANUSH:

3           Q.       And what is a focused  
4       strategic customer base referring to?

5           A.       To my best recollection, it  
6       means that this was after the time that  
7       we had reduced the sales force size to  
8       the Quintiles sales force only with  
9       about -- much less number of reps. And,  
10      therefore, we could only call on so many  
11      doctors because there's only so many, you  
12      know, hours in the day.

13                 So focused strategic  
14      customer base means we went from calling  
15      on this many customers, clinicians, down  
16      to this many. So that's the focused  
17      strategic customer base, because when we  
18      were calling on all these doctors, some  
19      of them were much more important for the  
20      cardiovascular business or the diabetes  
21      business. So that's what we're basically  
22      saying.

23                 Now that we've cut out all  
24      these people, how do we show that this



1 model works, that by focusing only on,  
2 you know, these clinicians, that our  
3 strategy works.

4 Q. Are you speaking about the  
5 pain force sales team?

6 A. Yes.

7 Q. The pain force sales team  
8 had somewhere between 70 and 80 sales  
9 representatives; is that right?

10 A. Yes.

11 Q. But the pain force sales  
12 team, that was considered a specialty  
13 sales team, right?

14 A. Yes.

15 Q. And that was what was  
16 staffed out of Quintiles, right?

17 A. Yes.

18 Q. Okay. But that was not the  
19 only sales team that was selling Nucynta;  
20 isn't that right?

21 A. No. When we established a  
22 pain force with Quintiles, they were the  
23 only representatives selling Nucynta ER.  
24 Those 77 to 80 reps. No one else.

1 Q. And all of the -- all of the  
2 other representatives, the many hundreds  
3 that previously existed --

4 A. They stopped.

5 Q. -- were gone?

6 MS. STRONG: Objection.

7 BY MR. JANUSH:

8 Q. Stopped selling Nucynta?

9 A. They --

10 MS. STRONG: Wait a second.

11 Objection to form.

12 THE WITNESS: Correct. They  
13 don't -- they stopped selling  
14 Nucynta ER.

15 BY MR. JANUSH:

16 Q. And Quintiles also provided  
17 the district manager support employees as  
18 well for that specialty pain force sales  
19 team; isn't that right?

20 MS. STRONG: Objection to  
21 form.

22 THE WITNESS: If I'm  
23 understanding you correctly,  
24 you're asking if the district

1 managers are also Quintiles  
2 employees? Yes.

3 BY MR. JANUSH:

4 Q. So the entire pain force was  
5 supplied by Quintiles?

6 A. Quintiles, yes.

7 Q. And they were contract  
8 employees for Janssen; is that right?

9 MS. STRONG: Objection to  
10 form.

11 THE WITNESS: I don't know  
12 the legal arrangements, but  
13 they're not -- they are not  
14 Janssen employees. So I guess  
15 they're like contract salespeople.

16 BY MR. JANUSH:

17 Q. Okay. Let's talk about --  
18 moving on to the second bullet under,  
19 "Establish Nucynta ER as first choice  
20 long-acting opioid.

21 "Build, educate, and equip  
22 best-in-class pain force (specialty sales  
23 team) to win in targeted accounts."

24 What does that mean?

1 A. Our --

2 MS. STRONG: Objection to  
3 form.

4 BY MR. JANUSH:

5 Q. What does it mean to win in  
6 targeted accounts?

7 A. To win in targeted accounts  
8 is sort of -- means to be successful in  
9 those targeted accounts.

10 Q. And what are targeted  
11 accounts?

12 A. Targeted accounts are the  
13 clinicians or clinics -- clinics are  
14 considered accounts -- that the pain  
15 force was asked to call on.

16 Q. And I'm going to move down  
17 to enhanced speaker program platform and  
18 delivery vehicle.

19 Do you see that?

20 A. Mm-hmm.

21 Q. What if anything was done to  
22 enhance the speaker program platform and  
23 delivery vehicle?

24 A. So the primary thing that

1 the team worked on, which was not my  
2 direct responsibility, was to create the  
3 platform, is how do we, you know, train  
4 the speakers in a way that was effective,  
5 compliant, and -- but reduced costs. And  
6 also the delivery vehicle also was around  
7 doing the speaker programs more virtually  
8 instead of all in person for cost savings  
9 perspective.

10 Q. Okay. And were you a part  
11 of the transition to the virtual key  
12 opinion leader programs that were  
13 accessible online?

14 MS. STRONG: Objection to  
15 form.

16 THE WITNESS: I was on the  
17 team when that happened. But that  
18 was not my responsibility, not my  
19 direct responsibility.

20 BY MR. JANUSH:

21 Q. Earlier you talked about the  
22 difference between having direct  
23 responsibility, but you might -- but  
24 somebody still might be involved in the

1 team. When you say that you were on the  
2 team that did that, did you play any role  
3 with regard to developing the enhanced  
4 speaker program platform, the electronic  
5 transmittal of video of key opinion  
6 leaders that were accessible at a click?

7 MS. STRONG: Objection to  
8 form.

9 THE WITNESS: I did not have  
10 any direct -- I didn't have much  
11 input.

12 BY MR. JANUSH:

13 Q. Who would have been the  
14 person that most oversaw that program?

15 MS. STRONG: Objection to  
16 form.

17 THE WITNESS: I'm not sure  
18 about the timing. I think it  
19 might have been -- it might have  
20 been Frank DeMiro at the time.

21 At one point he was  
22 responsible for the speaker  
23 program. But I don't know if he  
24 was the one responsible for that

1 transition.

2 BY MR. JANUSH:

3 Q. And I'm going to go back up  
4 to the top under key business questions.  
5 I'm going to circle a key business  
6 question. I'm going to change color to  
7 differentiate here.

8 The question that's posed on  
9 this document states, "How will potential  
10 legislative and policy events affect  
11 overall pain market growth?" And then  
12 there's a separate sub question, "Does  
13 this vary by region?"

14 Do you see it?

15 A. I see it.

16 Q. Okay. Are you able to tell  
17 me what this question was driving at?

18 MS. STRONG: Objection.

19 Which question?

20 BY MR. JANUSH:

21 Q. The first question. "How  
22 will potential legislative and policy  
23 events affect overall pain market  
24 growth?" What was the concern being

1 addressed here?

2 MS. STRONG: Objection to  
3 form.

4 THE WITNESS: I don't know  
5 if it's a concern, first of all.

6 Can I tell you what that  
7 means?

8 So I would say that in  
9 general anything having to do with  
10 legislative, you know, policy and  
11 stuff was not my, you know,  
12 responsibility. So this would  
13 have been submitted by somebody  
14 else.

15 So I don't know what they  
16 would have, you know, meant by  
17 that specifically to be included  
18 in here. I can -- I can speculate  
19 what --

20 BY MR. JANUSH:

21 Q. I'm not asking you to  
22 speculate.

23 A. Okay.

24 Q. Moving into the middle



1 column, "Capitalize on and maintain  
2 favorable access."

3 A. Mm-hmm.

4 Q. Let's go to the very first  
5 point, "Strength and dissemination of  
6 value proposition." What does this mean?

7 A. Strength and dissemination  
8 of value proposition. I don't recall  
9 specifically. I'm sorry, I don't know  
10 what this means, because I wasn't  
11 responsible for the payer access.

12 Q. Do you remember what the --  
13 what the value proposition was at all  
14 concerning Nucynta?

15 MS. STRONG: Objection to  
16 form.

17 THE WITNESS: So this, this  
18 section here refers to payer  
19 access. Someone else was  
20 responsible for the payer  
21 marketing. I had professional  
22 marketing.

23 So I don't know how they  
24 would have articulated the value

1           proposition to payers. That's  
2           what it -- I think this is  
3           referring to.

4       BY MR. JANUSH:

5           Q.     Okay. I'm going to move on  
6           to the next page, Slide 5. And there  
7           appears to be a list of discontinued  
8           marketing objectives and a list of  
9           continued marketing objectives. Is that  
10          a fair recitation?

11          A.     It appears so. Yes, it  
12          appears so.

13          Q.     Okay. So let's look at what  
14          was discontinued. There was this ten  
15          free pill voucher program. Do you -- do  
16          you recall that program?

17          A.     No, I don't.

18          Q.     So it's -- I'm going to  
19          represent to you that -- that I have a  
20          basic understanding from reviewing  
21          documents and I'm only doing this just  
22          for background purposes --

23          A.     Sure.

24          Q.     -- to see if I can jog your

1 memory. That there was an administrator  
2 of a ten-free-pill voucher program named  
3 McKesson, a distributor --

4 A. Okay.

5 Q. -- who was paid by Janssen,  
6 as I understand it, \$2 million to  
7 administer a ten-free-pill voucher  
8 program to get patients started on  
9 Nucynta. That's my understanding. Now  
10 I'm not testifying.

11 So I want to ask you, given  
12 that prefatory background information,  
13 does any of that strike a chord with you  
14 or refresh your recollection about what  
15 this program may have been about?

16 MS. STRONG: Objection to  
17 form.

18 THE WITNESS: No.

19 BY MR. JANUSH:

20 Q. Had you ever heard of a  
21 \$2 million administrative fee paid to  
22 McKesson for a ten-free-pill voucher  
23 program?

24 A. No.

1           Q.     And moving onto that -- that  
2     which was continued. It looks like PNMT  
3     \$25 savings card. Do you recall what  
4     this program concerned?

5           A.     PNMT stands for pay no more  
6     than. So I'm aware that we had a program  
7     called pay no more than \$25 savings card.

8           Q.     Were you at all part of, as  
9     you helped turn around the marketing team  
10    for Nucynta, the program to introduce \$25  
11    savings cards so that patients could have  
12    easy initial access and not feel a  
13    financial burden in paying for a new  
14    branded drug that was on the market?

15                   MS. STRONG: Objection to  
16                   form.

17                   THE WITNESS: I'm sorry,  
18                   what's your question?

19    BY MR. JANUSH:

20           Q.     Were you aware at all as  
21    part of -- as a person who is a part of  
22    turning around, helping to turn around  
23    the Nucynta marketing program, of the  
24    objective to introduce \$25 savings cards

1 so that patients could have easy initial  
2 access and not feel a financial burden  
3 when being prescribed Nucynta?

4 MS. STRONG: Objection to  
5 form.

6 THE WITNESS: It's not --  
7 it's not clear to me what you're  
8 asking. It's pretty long.

9 BY MR. JANUSH:

10 Q. Do you -- let's break it  
11 down. Do you recall being -- you recall  
12 a \$25 savings program, right?

13 A. Yes. I know of its  
14 existence.

15 Q. Okay. And this was a  
16 program that was implemented to make  
17 Nucynta more cost effective for a patient  
18 who might have to make a co-pay or pay  
19 out of pocket for the drug; isn't that  
20 right?

21 MS. STRONG: Objection to  
22 form.

23 THE WITNESS: So I wasn't  
24 responsible for the savings card.

1           Someone else was. I know that it  
2           was out there. I don't know -- I  
3           don't know the reason for Janssen  
4           developing it. So I can't -- I  
5           can't speak to why it was  
6           developed or when it came to be.  
7           I just knew -- I just recall that  
8           the time that I was on the team,  
9           we always had one that I can  
10          remember.

11       BY MR. JANUSH:

12           Q.     Okay. Do you know how much  
13          that savings program cost Janssen?

14                   MS. STRONG: Objection to  
15          form.

16                   THE WITNESS: No, I don't  
17          know.

18       BY MR. JANUSH:

19           Q.     Next slide is "Advocacy  
20          strategies, support appropriate  
21          prescribing of opioids." Were you  
22          involved in --

23           A.     Wait. I'm sorry, that's not  
24          my next page. Hold on.

1 Q. Sorry.

2 A. This --

3 Q. Policy strategy? I  
4 apologize. I didn't realize that it was  
5 stuck to -- I passed by that and I went  
6 to 7.

7 A. Okay. You want to go here.

8 Q. Forgive me.

9 A. That's okay.

10 Q. Slide 7. Advocacy strategy.  
11 Were you involved in advocacy strategy?

12 A. No.

13 Q. Were you involved at all  
14 with Prescribe Responsibly, the website  
15 that was -- that's listed here as being a  
16 resource on appropriate prescription of  
17 opioids?

18 A. No.

19 Q. Were you involved in -- so  
20 you weren't involved in any aspect of  
21 Prescribe Responsibly?

22 A. Correct.

23 Q. Okay. Same question if it  
24 concerned Prescribe Responsibly, for

1     example, on, I don't know, those sales  
2     rep iPads, would you have been involved  
3     in Prescribe Responsibly on sales rep  
4     iPads?

5                     MS. STRONG:  Objection to  
6             form.

7                     THE WITNESS:  No.

8     BY MR. JANUSH:

9             Q.     Not at all?

10            A.     Not at all.

11            Q.     Okay.  Next is Smart Moves  
12     Smart Choices.

13                     Well, going back.  Do you  
14     know what Prescribe Responsibly is?

15            A.     I feel like I should, but  
16     not -- not really.  I know it is an  
17     unbranded website.  It has nothing to go  
18     with Nucynta or Nucynta ER.

19            Q.     Nothing, huh?

20                     MS. STRONG:  Objection to  
21             form.

22                     THE WITNESS:  What I'm  
23             saying is I'm not -- I'm not  
24             familiar.  My understanding is



1           that it's unbranded and it doesn't  
2           have to do with Nucynta or Nucynta  
3           ER. That's my understanding.

4       BY MR. JANUSH:

5           Q.     Did you always have that  
6           understanding?

7                     MS. STRONG: Objection to  
8           form.

9                     THE WITNESS: Always? I  
10          don't know what you mean by  
11          always. That's my understanding  
12          of it.

13       BY MR. JANUSH:

14          Q.     Medical associations. Were  
15          you involved in sponsoring medical  
16          associations?

17          A.     No.

18          Q.     Did you know whether Janssen  
19          sponsored medical associations while you  
20          were a product team leader in the  
21          marketing team?

22                     MS. STRONG: Objection to  
23          form.

24                     THE WITNESS: No, I'm not

1           aware.

2       BY MR. JANUSH:

3           Q.     Did you ever hear of AAPM?

4           A.     Mm-hmm.

5           Q.     American Academy of Pain  
6       Management?

7           A.     Mm-hmm.

8           Q.     Are you completely unaware  
9       of whether Janssen sponsored AAPM?

10           MS. STRONG:   Objection to  
11       form.

12           THE WITNESS:   I'm not aware  
13       what if any sponsorships we had.  
14       It wasn't my responsibility.

15       BY MR. JANUSH:

16           Q.     Moving on to the bottom.  
17       Smart Moves Smart Choices.   Raises  
18       awareness of teen prescription drug  
19       abuse, school tool kit, videos, lesson  
20       plans and brochures.   I've just read  
21       what's listed on -- as the third prong of  
22       this slide; is that right?

23           A.     That's -- that's what you  
24       read.   Yeah.

1           Q.     Okay. So I just want to  
2     make sure I read it correctly. Moving on  
3     to my question. Were you involved at all  
4     with Smart Moves Smart Choices?

5           A.     No, I was not.

6           Q.     Now, I'm going to move onto  
7     Slide 10. And this is the slide that  
8     addresses building and deploying the new  
9     pain force. This is what we were  
10    speaking to earlier regarding the  
11    Quintiles pain force sales  
12    representatives and seven district  
13    managers; is that right?

14          A.     Correct.

15                MS. STRONG: Objection to  
16                form.

17    BY MR. JANUSH:

18          Q.     So what does NSD stand for?

19          A.     National sales director.

20          Q.     And is that a Quintiles  
21    person or a Janssen person?

22          A.     Quintiles person.

23          Q.     And who would that have  
24    been?

1           A.     Greg. I don't know his -- I  
2     can't recall his last name. Greg. Greg?  
3     Okay. The name Greg is coming to me, but  
4     I don't remember the last name.

5           Q.     And there were seven  
6     district managers for -- for the country;  
7     is that right?

8           A.     Correct.

9           Q.     And Quintiles employed all  
10    seven of those district managers?

11          A.     Correct.

12          Q.     And there were 77 sales  
13    representatives on this new pain force,  
14    right?

15          A.     Yes.

16          Q.     And Quintiles employed all  
17    77 of these representatives?

18          A.     Yes.

19          Q.     What led to the shift in  
20    terms of choosing at Janssen not to  
21    segregate out other current sales  
22    representatives that could only focus on  
23    a specific targeted list of doctors and  
24    going outside of Janssen to hire

1 Quintiles?

2 MS. STRONG: Objection to  
3 form.

4 THE WITNESS: So I think  
5 you're asking why didn't Janssen  
6 take some sales reps from  
7 somewhere --

8 BY MR. JANUSH:

9 Q. And transition?

10 A. -- and transition them  
11 versus going to Quintiles?

12 Q. That's what I'm asking.

13 A. So the decision was not  
14 mine. It's like, you know, many pay  
15 grades above. So I don't know, like, all  
16 of the reasons. I am aware of sort of in  
17 general, my understanding is that with  
18 Quintiles you can get them up and running  
19 faster. And we would be able to recruit  
20 people with pain experience.

21 If you were to take, you  
22 know, reps from somewhere else. Okay,  
23 I'm sorry, this is not my knowledge.  
24 This is my -- this part would be sort of

1     what I'm speculating.

2             Q.     Let me ask you a different  
3     question.

4                     You addressed the notion of  
5     getting people up and running faster with  
6     Quintiles. In 2009 the Nucynta  
7     molecule -- the Nucynta ER -- excuse me,  
8     IR, immediate release pill hit the  
9     market, right?

10                    MS. STRONG: Objection to  
11     form.

12     BY MR. JANUSH:

13             Q.     You are aware of that?

14             A.     I don't know the exact  
15     timing. That sounds about right, yeah.

16             Q.     Okay. And sales  
17     representatives who are trained on  
18     Nucynta IR are already really familiar  
19     with the molecule and with Nucynta in  
20     terms of converting them over to Nucynta  
21     ER. Wouldn't that be the case?

22                    MS. STRONG: Objection.

23                    THE WITNESS: You're asking  
24     if someone knows Nucynta, would it

1 be easier to train them on Nucynta

2 ER than -- versus --

3 BY MR. JANUSH:

4 Q. In other words, than going

5 to a complete outside entity. You

6 already have sales representatives,

7 hundreds of them, selling Nucynta IR

8 before 2013, correct?

9 MS. STRONG: Objection to

10 form.

11 THE WITNESS: People selling

12 Nucynta IR before 2013? That's

13 correct.

14 BY MR. JANUSH:

15 Q. Hundreds of sales

16 representatives were selling Nucynta IR

17 before 2013, right?

18 MS. STRONG: Objection to

19 form.

20 THE WITNESS: I don't know.

21 Like, that was before my time. I

22 didn't join until 2011 so I don't

23 know.

24 BY MR. JANUSH:

1 Q. It's not before your time.

2 In 2011, hundreds of people were selling  
3 Nucynta IR, right?

4 A. Oh, I thought you meant 2019  
5 -- in 2011, when we had the original  
6 sales force, there were, yeah.

7 Q. Many hundreds of sales  
8 representatives were selling --

9 A. I don't know how many  
10 hundreds, but hundreds, yeah.

11 Q. And they were -- they would  
12 have been tasked with being familiar with  
13 Nucynta as a molecule, correct?

14 A. Yes.

15 Q. And the differentiating  
16 factor between Nucynta IR and Nucynta ER  
17 was the extended-release component,  
18 correct?

19 MS. STRONG: Objection to  
20 form.

21 BY MR. JANUSH:

22 Q. The main -- the main --

23 A. The product, yes. But you  
24 would have to study the studies.



1 Q. Sure.

2 A. Mm-hmm.

3 Q. But if you trusted reps to  
4 study the studies for Nucynta IR, why not  
5 trust them to study the studies for  
6 Nucynta ER? Why go outside and hire a  
7 Quintiles pain force?

8 MS. STRONG: Objection to  
9 form.

10 THE WITNESS: That was not  
11 my decision. So I don't know.

12 BY MR. JANUSH:

13 Q. Did you ever question it as  
14 a project team leader?

15 A. I can --

16 MS. STRONG: Object to form.

17 THE WITNESS: I can  
18 speculate, but I don't know.

19 MS. STRONG: Hold on.

20 BY MR. JANUSH:

21 Q. I'm only asking if you ever  
22 questioned it.

23 MS. STRONG: Object.

24 Can we pause for a second?

1           If you can take a moment so I can  
2           interpose an objection.

3           THE WITNESS: I'm sorry.

4           MS. STRONG: Just for the  
5           record, it's objection to form.

6 BY MR. JANUSH:

7           Q.     You can answer my question.

8           A.     I'm sorry.

9           Q.     Did you ever question this  
10          issue as a project team leader?

11          MS. STRONG: Objection to  
12          form.

13          THE WITNESS: Did I question  
14          what?

15 BY MR. JANUSH:

16          Q.     Why Janssen was going to  
17          move away from all of the many hundreds  
18          of Nucynta-trained sales reps to hire 77  
19          outside folks at Quintiles?

20          MS. STRONG: Objection to  
21          form.

22          THE WITNESS: So you're  
23          asking why I didn't question as in  
24          I wasn't curious? Why would I

1 question if I had an understanding  
2 of what it is?

3 BY MR. JANUSH:

4 Q. I didn't ask you why. I  
5 asked you did you ever question this  
6 issue?

7 MS. STRONG: Objection to  
8 form.

9 THE WITNESS: I just  
10 wouldn't classify it as did I  
11 every question it.

12 I mean, I had an  
13 understanding of why. So if you  
14 have an understanding of  
15 something, why would you question  
16 it?

17 BY MR. JANUSH:

18 Q. So that I better understand,  
19 because maybe I don't, explain why  
20 Janssen moved away from the hundreds of  
21 sales representatives already detailing  
22 Nucynta IR and hired a fresh team of 77  
23 sales representatives and seven district  
24 managers and one national sales director

1 from Quintiles to exclusively promote  
2 Nucynta ER?

3 MS. STRONG: Objection to  
4 form.

5 THE WITNESS: So I can tell  
6 you my understanding of it. But I  
7 just want to say that that was  
8 not -- that was not my decision.  
9 So I don't know for a fact that  
10 these were the reasons or the only  
11 reasons, but I can tell you my  
12 understanding of it, is that -- is  
13 that -- can I share that with you?

14 BY MR. JANUSH:

15 Q. Please do.

16 A. Okay. The objective was to  
17 have a dedicated sales force to sell  
18 Nucynta and Nucynta ER because we were  
19 sharing the sales force with other  
20 products.

21 There are many factors that  
22 go into the decision of how you do that.  
23 One of the factors is that because we are  
24 sharing the sales representatives on

1 three other products, you have to make a  
2 decision on pulling those representatives  
3 to sell Nucynta and Nucynta ER, and then  
4 having to find new representatives that  
5 you have to train for two other products  
6 that are completely different, one is  
7 cardiovascular and one is diabetes.

8           The diabetes product was  
9 about to come to market, and there's a  
10 lot of training involved and a lot of new  
11 knowledge that reps had to learn.

12           So one of the reasons is it  
13 doesn't make sense to throw all that  
14 training away on a new product that needs  
15 to come to marketplace to pull those  
16 representatives. That's one reason.

17           Another reason is that  
18 because the footprint changed and reduced  
19 so much -- footprint meaning if you map  
20 out the United States, where the  
21 clinicians are that you're going to call  
22 on -- there will be a lot of white space.  
23 Meaning you can't cover everywhere in the  
24 country with 77 people. So you have to

1 be able to assign representatives that  
2 can cover the area geographically.

3 And to do it cleanly is  
4 another factor in making a decision about  
5 how you form that sales team.

6 So that's two examples of  
7 multiple factors that went into it. So  
8 it's a complex business decision that I  
9 can only share with you like I did now,  
10 my understanding. But there's probably a  
11 whole lot more and deeper than that in  
12 terms of a decision like that.

13 Does that make sense?

14 Q. So just to be clear, as to  
15 Issue 1 that you addressed, the sales  
16 force that was selling two other products  
17 that were different from Nucynta, is it  
18 your testimony today that all Nucynta  
19 sales representatives were concomitantly  
20 selling diabetes medication and  
21 cardiovascular medication at the same  
22 time as they were also representing or  
23 detailing Nucynta IR?

24 MS. STRONG: Objection to

1 form.

2 THE WITNESS: I cannot say  
3 definitively that every single  
4 sales representative did that.

5 BY MR. JANUSH:

6 Q. In fact, isn't it the case  
7 that hundreds of sales representatives  
8 only were scoped with -- directed to sell  
9 Nucynta to specific targeted physicians?

10 MS. STRONG: Objection to  
11 form.

12 Are you talking about  
13 Nucynta IR or ER?

14 MR. JANUSH: Nucynta IR.

15 THE WITNESS: And are you  
16 talking about the sales team that  
17 is not the Quintiles sales --

18 BY MR. JANUSH:

19 Q. That is exactly what I'm  
20 talking about. I'm essentially  
21 challenging you on the issue that you  
22 testified that all sales representatives  
23 were at the same time selling two other  
24 products that were different from Nucynta

1 IR, one being a cardiovascular medicine  
2 and one being a diabetes medication.

3 And I am asking you, if you  
4 are saying that the company actually  
5 didn't have hundreds of sales  
6 representatives that were specifically  
7 and only focused before Nucynta ER hit  
8 the market on selling IR, Nucynta IR?

9 MS. STRONG: Objection to  
10 form.

11 THE WITNESS: Okay. So as I  
12 stated earlier, I am not aware of  
13 the details of what happened early  
14 on before I joined the team.

15 Okay. So the sales team evolved  
16 over time with different teams and  
17 different responsibilities.

18 When you're talking about  
19 Nucynta IR, and who sold those, I  
20 have no idea.

21 BY MR. JANUSH:

22 Q. But you were on the team as  
23 of 2011, fair?

24 A. I was on the team at the end



1 of 2011.

2 Q. And through -- and through  
3 the time period between the end of 2011  
4 and when Nucynta IR launched in 2013?

5 A. No, Nucynta IR did not  
6 launch in 2013.

7 Q. When -- sorry.

8 A. Nucynta IR --

9 Q. Sorry. ER. I said it  
10 wrong. Sorry. My apology.

11 Nucynta ER launched when?

12 A. I don't know.

13 Q. '11, right?

14 A. Sometime in '11.

15 Q. In '11. And you -- and  
16 you -- when you took over or had your  
17 role with respect to Nucynta in 2011,  
18 first started, and hadn't yet  
19 transitioned to this newly developed pain  
20 force --

21 A. Correct.

22 Q. -- you had sales  
23 representatives that were selling Nucynta  
24 IR and Nucynta ER. Is that a fair

1 statement?

2 MS. STRONG: Objection to  
3 form.

4 THE WITNESS: There were  
5 sales representatives that sold IR  
6 and ER and other stuff.

7 BY MR. JANUSH:

8 Q. And so it's your position  
9 that when you first came on, all sales  
10 representatives were selling Nucynta IR,  
11 ER and other medications?

12 MS. STRONG: Objection to  
13 form.

14 BY MR. JANUSH:

15 Q. Is that right?

16 MS. STRONG: Objection to  
17 form.

18 THE WITNESS: I cannot say  
19 all definitively because I wasn't  
20 very close to it. But my  
21 understanding is that they were,  
22 yes.

23 BY MR. JANUSH:

24 Q. And moving onto the

1 innovative new training -- training  
2 curriculum to prepare the new pain force.  
3 It's Slide 11. Do you see that?

4 A. Mm-hmm.

5 Q. Okay. Were you involved in  
6 the training program to prepare the new  
7 pain force?

8 A. Yes.

9 Q. What was your involvement?

10 A. Let me think. It's been a  
11 while. So to bring on board the new pain  
12 force there was what we call home study,  
13 some of the training that they had to do  
14 at home on their own during that  
15 onboarding process to get ready for the  
16 national sales meeting, where they would  
17 get more training in person where we all  
18 came together.

19 I was responsible for sort  
20 of shepherding the national sales meeting  
21 preparation and what we would train them  
22 there at the meeting. So that was  
23 something that I worked on.

24 Someone else was responsible

1     for putting together much of the home  
2     study, but some of the information needed  
3     to come from marketing. So I provided  
4     some of that information to the person  
5     who was putting this together.

6             Q.     Who put together the -- the  
7     E-learning home study?

8             MS. STRONG: Objection to  
9     form.

10            THE WITNESS: I believe that  
11     the home study was put together by  
12     Stephanie Mello.

13     BY MR. JANUSH:

14            Q.     How do I spell her last  
15     name?

16            A.     M-E-L-L-O.

17            Q.     And so you would have been  
18     more involved on the right side of the  
19     page, the live session at the national  
20     sales meeting; is that right?

21            MS. STRONG: Objection to  
22     form.

23            THE WITNESS: I was -- I was  
24     responsible for pulling together

1 the -- the national sales meeting.

2 So a lot of the material that was

3 used was either developed by

4 myself or I put them together

5 based on what other people

6 contributed to the content.

7 BY MR. JANUSH:

8 Q. And I see that there are

9 four circles here, each touching a side

10 of the square. And one of the circles

11 starts with -- is application training,

12 and one is specialty centric simulations,

13 and one is oral assessment and

14 certification, and the last is practice

15 perspectives.

16 And in the center I see KOL

17 immersion. What is KOL immersion?

18 A. We had some key opinion

19 leaders at the meeting, at the sales

20 meeting to give some insight to the pain

21 force about, you know, how they practice,

22 how they see the marketplace, how they

23 prescribe, things like that.

24 Q. Do you remember the names of

1 the key opinion leaders that -- that were  
2 part of the live national sales meeting?

3 A. I remember one name.

4 Q. And who would that be?

5 A. Dr. Pergolizzi.

6 Q. Dr. who?

7 A. Pergolizzi.

8 Q. Okay. And what is specialty  
9 centric simulations?

10 A. I don't know --

11 Q. Is that role play?

12 A. I don't recall. There was  
13 role play. But I don't know if that's  
14 what specialty centric simulation is.

15 Q. Earlier we talked about  
16 the new enhanced more cost effective  
17 speaker programs. Do you remember that?

18 A. Yes.

19 Q. And we talked about virtual  
20 programs. Here it looks like this is a  
21 slide addressing the multiple delivery  
22 vehicle for peer-to-peer speaker  
23 programs. What is peer --

24 MS. STRONG: I'm sorry, what

1 page number are you on?

2 MR. JANUSH: Sorry, Page 17.

3 MS. STRONG: Thank you.

4 MR. JANUSH: It's -- it's on  
5 the Elmo as well.

6 MS. STRONG: Okay.

7 THE WITNESS: What's your  
8 question?

9 BY MR. JANUSH:

10 Q. What is peer-to-peer speaker  
11 programs?

12 A. Those are the speaker  
13 programs -- peer-to-peer means doctor to  
14 doctor or clinician to clinician speaker  
15 programs where the speaker would -- would  
16 present to other clinicians.

17 Q. So when you -- when you had  
18 speakers -- well, let -- let's break it  
19 down. Live programs. Streamlined deck  
20 with option of IPB. I don't -- I don't  
21 understand that acronym. Do you know?

22 A. I don't either. I don't  
23 recall.

24 Q. Round table format for

1 subset of live programs. Are you able to  
2 discuss and explain what a round table  
3 format for a subset of live programs  
4 means?

5 A. I can explain partially.

6 Q. Okay.

7 A. Round table format just  
8 means that you sit at a round table and a  
9 speaker would be at the table and the  
10 participants would be sitting together at  
11 that round table.

12 Q. And when you speak about a  
13 speaker being at that table with  
14 participants sitting around that round  
15 table, that would be a paid key opinion  
16 leader as the speaker; is that right?

17 MS. STRONG: Objection to  
18 form.

19 THE WITNESS: You're talking  
20 about the speaker?

21 BY MR. JANUSH:

22 Q. Yes.

23 A. So you're asking if the  
24 speaker is paid?



1 Q. Yes.

2 A. Yes, they receive  
3 honorarium.

4 Q. Okay. And typically in  
5 the -- in the thousands of dollars to  
6 speak at an event; is that right?

7 MS. STRONG: Objection to  
8 form.

9 THE WITNESS: I'm not sure  
10 how much they get paid. And it's  
11 based on fair market -- fair  
12 market value that's assessed by  
13 compliance.

14 BY MR. JANUSH:

15 Q. And --

16 A. I'm sorry, can I go back and  
17 correct something? It's a  
18 misrecollection. Sorry.

19 Round table format just  
20 means they sit at round tables. It  
21 doesn't mean the speaker is sitting  
22 there. It could be like the speaker is  
23 at the podium.

24 Q. Understood.

1           A.     Sorry.

2           Q.     And let's go to virtual  
3     programs. Meeting direct virtual  
4     programs, speaker direct for low-see or  
5     no-see healthcare practitioners or  
6     healthcare professionals.

7                     Can you further describe  
8     this and explain what this is?

9           A.     Which part? The virtual  
10    program?

11          Q.     Yes.

12          A.     So the virtual program is  
13    still a speaker program, but it's not  
14    live in-person, like the speaker would be  
15    on a computer screen. But so you would  
16    see his face, you would see his slides,  
17    but all participants can be anywhere on  
18    the computer.

19          Q.     And it looks like this is --  
20    what is speaker direct, do you know what  
21    that means?

22          A.     I'm sorry, where are you  
23    pointing to?

24                     Oh, that's just the name of

1 the program, I think.

2 Q. So are these live programs  
3 that you have to dial into at a very  
4 specific time or programs that you can  
5 pull up at any point in time and -- and  
6 have a healthcare practitioner watch a  
7 given program held by a or overseen by a  
8 specific key opinion leader on a given  
9 topic?

10 MS. STRONG: Objection to  
11 form.

12 THE WITNESS: I'm not  
13 definitive. It could be either  
14 the speaker is live at that time  
15 or could be -- I don't know. I  
16 can't answer that.

17 BY MR. JANUSH:

18 Q. What are pull-through  
19 vehicles?

20 A. You know, I don't know  
21 enough to speak about it. So I don't  
22 want to get it wrong.

23 MS. STRONG: Mr. Janush, we  
24 are at noon. I just wanted to

1 flag. Will we be stopping for  
2 lunch soon?

3 MR. JANUSH: We can go off  
4 the record.

5 THE VIDEOGRAPHER: We are  
6 now going off the record. And the  
7 time is 11:59 a.m.

8 - - -

9 (Lunch break.)

10 - - -

11 A F T E R N O O N S E S S I O N

12 - - -

13 THE VIDEOGRAPHER: We are  
14 now going back on the record. And  
15 the time is 1:11 p.m.

16 - - -

17 EXAMINATION (Cont'd.)

18 - - -

19 BY MR. JANUSH:

20 Q. Hi, Ms. Burns. I hope you  
21 had a nice lunch.

22 A. Yep. Thanks.

23 Q. I'm going to transition to  
24 Exhibit 5.

1 (Document marked for  
2 identification as Exhibit  
3 Janssen-Burns-5.)

4 BY MR. JANUSH:

5 Q. Exhibit 5 is an e-mail from  
6 you to Patricia Yap and David Lin. It's  
7 dated June 19, 2013. The subject is key  
8 insights and key business questions. And  
9 it includes a draft for tomorrow's BP  
10 meeting.

11 And the attachments noted on  
12 the e-mail are the 2014 BP insights and  
13 KBQs, two pages, dot PPTX.

14 And the Bates numbers for  
15 this, the cover e-mail is JAN-MS -- there  
16 you go. JAN-MS-02386918.

17 And I'm going to represent  
18 to you that the attachment is what was  
19 produced together with this e-mail in the  
20 same family. And it is JAN-MS-002386919.

21 We have made the Bates page  
22 that is the separator sheet in order to  
23 make it clear, so I just wanted to note  
24 that for the record.

1                   So starting with the cover  
2   e-mail, I guess I just wanted to  
3   understand real briefly what a -- is a BP  
4   meeting the acronym for a business plan  
5   meeting?

6           A.     Yes.

7           Q.     Okay. And it appears that  
8   you are addressing this to two of your --  
9   I would say your two key superiors; is  
10   that right?

11          A.     Yeah, mm-hmm.

12          Q.     And you're writing,  
13   "Attached please find the draft key  
14   insights and key business questions.

15                   I've taken notes from both  
16   KBQ meetings and rolled up various  
17   ideas" -- and I'm going to pause now,  
18   what is a KBQ meeting?

19          A.     Key business question.

20          Q.     Okay. And are these --  
21   where -- where are these key business  
22   questions typically -- or emanating from,  
23   if you can answer?

24                   MS. STRONG: Objection.

1 Form.

2 THE WITNESS: So in general,  
3 as part of business planning  
4 process, we would start with some  
5 key business questions that would  
6 be relevant for that business  
7 plan. And it would come from  
8 various places, various people,  
9 things that we have learned kind  
10 of like throughout the year  
11 leading up to that time point.

12 BY MR. JANUSH:

13 Q. Okay. And you have it in  
14 front of you. I'm just putting it on the  
15 Elmo as a demonstrative.

16 It says, "The objective of  
17 the meeting will be to get feedback on  
18 these, ensure that we've captured ideas  
19 from previous meetings, and narrow down  
20 three to four insights and three to four  
21 KBQs. If time permits we can start to  
22 get input on things that we can do to  
23 address these questions (strategies and  
24 tactics)."

1 I read that correctly,  
2 right?

3 A. Yes.

4 Q. Okay. I did that just to  
5 give a preview before we turn the page  
6 and move on to the two-page PowerPoint  
7 that's referenced in the attachment to  
8 the e-mail.

9 The attachment is addressing  
10 key insights, and I'm going to start with  
11 the first one, which is -- well, first of  
12 all, this e-mail was from you to Patricia  
13 and David Lin. And it appears that this  
14 is your attachment to the e-mail.

15 Did you write this e-mail,  
16 if you were attaching it to Patricia and  
17 David Lin, saying, "I've taken these  
18 notes from both KBQ meetings and rolled  
19 up various ideas"? Would this be your  
20 two-page PowerPoint?

21 MS. STRONG: Objection to  
22 form.

23 THE WITNESS: Are you --  
24 wait.



1 BY MR. JANUSH:

2 Q. Go back to the cover e-mail  
3 if you need help.

4 A. Yeah, I'm just trying to  
5 narrow down your question. Are you  
6 asking if this is the e-mail I wrote?

7 Q. Well, you wrote the e-mail,  
8 right?

9 A. Right, right.

10 Q. Yes. And in the e-mail, you  
11 wrote, "I've taken notes from both KBQ  
12 meetings and rolled up various ideas,"  
13 did you not?

14 A. That's what it says, yes.

15 Q. Okay. And, "Please review  
16 and comment," is referring to the  
17 attachment, right?

18 A. Yes.

19 Q. So you drafted the  
20 attachment, right?

21 A. I -- it seems, yes.

22 Q. Okay. So you drafted the  
23 attachment. So I'm going to ask you very  
24 specific questions about what you

1 drafted. Let's start with Bullet Point  
2 Number 1: "In a habitual prescribing  
3 market, consistent promotional intensity  
4 is required."

5 Can you explain that  
6 statement?

7 A. "In the habitual prescribing  
8 market" refers to the fact that  
9 prescribers have been prescribing opioids  
10 for a long time. They've had multiple  
11 options of opioids for decades. And  
12 habitual means that they are used to --  
13 based on our understanding of the market  
14 at that time, they tend to write or  
15 prescribe products that they are  
16 comfortable with, that have clinical  
17 experience with. So that's what it  
18 means.

19 "Consistent promotional and  
20 intensity is required" was intended to  
21 say that because prescribers are so used  
22 to the options that had been available  
23 for decades, in order for us to educate  
24 them on anything new, specifically

1     Nucynta ER, it takes a lot of effort,  
2     meaning promotional intensity, in terms  
3     of how frequently you, you know, get the  
4     sales rep in front of them, or how much  
5     time it takes to communicate everything  
6     that you need to communicate so that they  
7     can truly understand what Nucynta ER is  
8     all about, what the benefits, and you  
9     know, risks are and how to use.

10           Q.     Okay. I'm just making some  
11     notes.

12                   MS. STRONG: And, again, we  
13     talked about this earlier, we  
14     object to you making notes and  
15     displaying it during the  
16     testimony. Because we noted it  
17     earlier, we will argue about our  
18     objection to this at a later time.

19                   MR. JANUSH: I appreciate  
20     it. I understand you. If I were  
21     in court and had the witness on  
22     stand and had this blown up on the  
23     poster board, I'd be able to take  
24     a big fat marker in my hand and

1 mark it up. And I'm doing no  
2 different right now.

3 BY MR. JANUSH:

4 Q. Moving to Bullet 2: "Broad  
5 anti-opioid sentiment is negatively  
6 impacting stakeholder behaviors  
7 (pharmacies, HCPs, and patients)."

8 Can you shed light on what  
9 you meant when you wrote that, "Broadly  
10 anti-opioid sentiment is negatively  
11 impacting stakeholder behaviors"?

12 A. Let me think about that.

13 MS. STRONG: Objection to  
14 form.

15 Go ahead.

16 THE WITNESS: Give me a  
17 second. I just also want to see  
18 what else is here. Okay. So I  
19 don't know if I recall specifics  
20 for each one of these  
21 stakeholders, like pharmacies,  
22 HCPs, and patients, because this  
23 is kind of like a long time ago.

24 But in general at the time,

1 as you probably are aware, there  
2 is a lot of discussion about sort  
3 of, you know, opioid misuse, or  
4 worries about overuse or  
5 inappropriate use of opioids. And  
6 a lot of the things that sort  
7 of -- in the press, we felt that  
8 it was having -- it was changing  
9 the way that some of the  
10 stakeholders were behaving.

11 So as an example, HCPs mean  
12 healthcare providers or  
13 prescribers, might have sort of  
14 been fearful of doing things, you  
15 know, sort of incorrectly or  
16 whatever and would sort of pull  
17 back on their prescribing of  
18 opioids, even for patients that,  
19 you know, had chronic pain and  
20 needed the medical treatment.

21 So that's kind of what we  
22 meant by some of the negative  
23 impact of people changing the  
24 behavior in a way that negatively

1           impact patients who really needed  
2           the treatment.

3       BY MR. JANUSH:

4           Q.     Do you have any appreciation  
5     for the concept that broad anti-opioid  
6     sentiment may also be related to  
7     healthcare practitioners at this time  
8     being concerned that opioid products lead  
9     to abuse, misuse, and diversion?

10                   MS. STRONG:  Objection to  
11           form.

12       BY MR. JANUSH:

13           Q.     You may answer.

14           A.     Do I have an appreciation  
15     for that?

16           Q.     Yeah, I'm asking you this  
17     question for a very specific reason.  You  
18     limited your prior answer to the notion  
19     that broad anti-opioid sentiment, as an  
20     example, may be impacting prescribers who  
21     may be pulling back -- I'm paraphrasing,  
22     but may be pulling back for prescribing  
23     for people with chronic pain that need  
24     medicine.  Am I somewhat accurately

1     paraphrasing what you --

2             A.     No.

3             Q.     -- said earlier as your  
4     example?

5             A.     No, no. I'm sorry. That's  
6     not -- that's not what I meant.

7             Q.     Okay.

8             A.     I'm not saying that the  
9     prescribers pulled back on their  
10    prescribing and the opioid sentiment is  
11    one of the reasons. I'm saying that the  
12    opioid, the anti-opioid sentiment caused  
13    some of the behavior that I explained.  
14    So you flipped the cause and effect.

15            Q.     So broad -- I think we were  
16    saying the same thing. I don't think we  
17    were far off. Broad anti-opioid  
18    sentiment led to, caused, physicians to  
19    pull back --

20            A.     Yes.

21            Q.     -- on prescribing for people  
22    with chronic pain needs. That's your  
23    testimony, right?

24                   MS. STRONG: Objection to

1 form.

2 THE WITNESS: That -- yeah,  
3 that's close, yeah to what I was  
4 saying. Mm-hmm. But what you  
5 said --

6 BY MR. JANUSH:

7 Q. And what I'm saying --

8 A. -- here was different than  
9 that.

10 Q. Well, I'm glad we're close  
11 now. And what I'm saying is, do you have  
12 any appreciation for the notion that  
13 anti-opioid sentiment may not be only  
14 linked to doctors who pull back on  
15 prescribing to patients with chronic  
16 pain, but may be linked to a concern that  
17 opioids are related to an increased risk  
18 of abuse, misuse, and diversion?

19 MS. STRONG: Objection to  
20 form.

21 THE WITNESS: So I think  
22 you're asking me a different  
23 question than what this statement  
24 was intended to say, right?



1 BY MR. JANUSH:

2 Q. What --

3 A. So I'm saying that --

4 Q. No, I'm -- I'm not asking  
5 you a different question. You wrote  
6 that, "Broad anti-opioid sentiment is  
7 negatively impacting stakeholder  
8 behaviors." And you -- your exemplar,  
9 your example as to how it's negatively  
10 impacting was limited to the doctor who  
11 is pulling back on prescribing for a  
12 patient who may need pain management in  
13 chronic pain care.

14 And I'm saying, isn't it  
15 possible that broad anti-opioid sentiment  
16 went far beyond that and concerned  
17 doctors who themselves may have been  
18 concerned at this date with the notion --  
19 with the notion that opioids are linked  
20 to an increased risk of abuse, misuse,  
21 and diversion?

22 MS. STRONG: Objection to  
23 form.

24 THE WITNESS: So first you

1           asked me to explain the bullet  
2           point, what I meant when I wrote  
3           it or when we collectively, you  
4           know, came up with this. And I  
5           explained that what -- when we  
6           said broad anti-opioid sentiment,  
7           what it meant to us and what's an  
8           example of the impact.

9                        So now you're asking me if  
10           broad anti-opioid sentiment could  
11           mean something else. And  
12           that's -- so I'm saying that how I  
13           explain it is what we believed it  
14           to be.

15                       But if you're asking me a  
16           different question unrelated to  
17           how I wrote this, I can answer  
18           that. But --

19   BY MR. JANUSH:

20                       Q.     You asked -- you answered,  
21           actually, a different question in a  
22           sense, because -- let me -- I'll take a  
23           step back and break this down and make it  
24           simpler.

1 A. Okay.

2 Q. What is -- what was broad  
3 anti-opioid sentiment?

4 A. As I'm sitting here right  
5 now, I can't tell you specifically, you  
6 know, what that meant, if it meant one  
7 thing or multiple things. I gave you an  
8 example of one thing.

9 Q. No. You gave me an example  
10 of the effect of broad opioid sentiment,  
11 meaning a doctor would pull back a  
12 prescription of someone who was in need  
13 of pain. That is an effect of a  
14 situation.

15 I'm now addressing the  
16 situation and asking what broad  
17 anti-opioid sentiment means?

18 MS. STRONG: Objection to  
19 form. Misstates testimony.

20 THE WITNESS: I did explain  
21 that.

22 BY MR. JANUSH:

23 Q. No, no, you said --

24 A. If you will just listen.

1 Q. I will.

2 A. Your statement was correct  
3 that I gave an example of the cause.  
4 That was the second part.

5 I started out explaining  
6 that anti-opioid sentiment meant that  
7 some of the negative press about opioid  
8 misuse, do you recall that? That's what  
9 I said.

10 Q. So in order to get that  
11 cleanly out, why don't you clarify  
12 exactly what broad anti-opioid sentiment  
13 is without linking it to what the effects  
14 of that are?

15 A. Broad anti-opioid sentiment,  
16 I explained, refer to some of the  
17 negative press around opioid, opioid use,  
18 opioid misuse in the marketplace.

19 Q. Moving down to the -- the  
20 bottom -- actually let's flip to the next  
21 page. First bullet. "How can we propel  
22 adoption of Nucynta ER in an anti-opioid  
23 market and expand use to maximize broad  
24 indication?"

1                   What -- what does this mean?

2                   A.       Okay.   So I'm going to have  
3       to break it down because it's -- there's  
4       a lot here.   So how do we propel adoption  
5       of Nucynta ER refers to the fact that  
6       Nucynta ER was relatively new in the  
7       marketplace and the majority of  
8       prescribers are not aware of Nucynta ER.  
9       They are not even aware of the name of  
10      the product or what it can do.   So propel  
11      adoption meant how do we educate enough  
12      clinicians to make sure that they really  
13      understand what it does, how to use it,  
14      what are the benefits, you know, and who  
15      it would be appropriate for, so that they  
16      can adopt it, meaning, so that they can  
17      start prescribing it for the appropriate  
18      patients.

19                   In an anti-opioid market, as  
20      we discussed just a little bit ago, that  
21      because of sort of the negative press  
22      around, you know, opioid use and misuse,  
23      the appetite to learn about new products  
24      may be impacted by that, so that kind of

1 paints the picture of what the  
2 marketplace was like at the time.

3 Expand use to maximize broad  
4 indication. Expand use meaning get more  
5 clinicians to actually prescribe Nucynta  
6 ER for the right patients. Maximize  
7 broad indication and talks about the fact  
8 that Nucynta ER has a broad indication  
9 for chronic pain, not specific to, you  
10 know, a limit -- a subset of patients,  
11 but broadly. If you have chronic pain,  
12 an opioid is appropriate for you, and,  
13 you know, the rest of the details of the  
14 prescribing -- the PI, that's what it  
15 means. It's we have a great indication  
16 that's been approved by the FDA. How do  
17 we get this into the marketplace for the  
18 right patients that it was meant to be  
19 for.

20 Q. In an anti-opioid market?

21 A. In -- in a marketplace where  
22 there is concern about, you know,  
23 overuse, or misuse of opioids, correct.

24 Q. Okay. So based on your

1     answer, you knew that the market that  
2     Janssen was selling in was an anti-opioid  
3     market and yet you were seeking to then  
4     expand the use of Nucynta and maximize a  
5     broad indication; is that right?

6                   MS. STRONG:  Objection to  
7                   form.

8                   THE WITNESS:  So let me  
9                   clarify what I meant by that, is  
10                  our goal wasn't to expand use of  
11                  opioids in general.  It wasn't to  
12                  say if the U.S. was, you know,  
13                  using this much opioids, we want  
14                  to expand it to here.

15                  What we -- what our goal was  
16                  was to say if this is the amount  
17                  of opioid use in the marketplace,  
18                  we want to be a part of that pie,  
19                  because we felt like we had a  
20                  really good product that's  
21                  appropriate, for, you know, a lot  
22                  of patients, have a really good  
23                  efficacy, safety profile, that it  
24                  would be great -- a great solution

1           for people who are already  
2           suffering from chronic pain, and  
3           are already using some kind of a  
4           long-acting opioid.

5                     We just wanted the  
6           clinicians to use Nucynta instead  
7           of something else. So it's for  
8           appropriate patients. It's not to  
9           grow the overall usage of opioids.  
10          Does that make sense?

11       BY MR. JANUSH:

12                 Q.     I think I understand what --  
13       what you've said.

14                     What did you mean in the  
15       fourth bullet when you wrote, "What sales  
16       force deployment is needed to reach the,  
17       quote, right targets with the, quote,  
18       right promotional intensity," quote?

19                 A.     Let me look back at the  
20       timeline. June '13. I was looking at  
21       that because -- trying to understand what  
22       this was referring to at that time for  
23       sales force deployment.

24                     I believe this was after the



1 pain force was already deployed. So this  
2 talks about with limited sales  
3 representatives of, you know, between,  
4 you know, 77 and 80, the right targets  
5 mean -- targets mean clinicians. So who  
6 do we want the sales representatives to  
7 talk and educate about Nucynta ER.  
8 Because we don't have unlimited number of  
9 sales representatives and right  
10 promotional intensity means -- that  
11 refers to frequency and reach. So it  
12 talks about how often would a sales rep  
13 need to be in front of a particular  
14 clinician to have enough time to explain  
15 the full story of Nucynta ER.

16 Q. Okay. And the focus at  
17 Janssen and within your marketing  
18 department was very, very, very  
19 specifically geared to which physicians  
20 prescribed the most Nucynta ER; isn't  
21 that right?

22 MS. STRONG: Objection to  
23 form.

24 THE WITNESS: Hold on. Let

1           me -- let me read that question  
2           again.

3                   No, that wouldn't be  
4           accurate.

5   BY MR. JANUSH:

6           Q.     How confident are you in  
7   that answer?

8                   MS. STRONG:  Objection to  
9   form.

10                  THE WITNESS:  I think it  
11   depends on, if I'm understanding  
12   it correctly, is that we focus our  
13   efforts against doctors who are  
14   already prescribing the most  
15   Nucynta ER?

16   BY MR. JANUSH:

17           Q.     And doctors -- I didn't say  
18   that --

19           A.     I think that's what it says.  
20   Which -- focusing on -- on prescribers  
21   that prescribe the most Nucynta ER.

22           Q.     Yeah.  That's a component of  
23   it.  I said very, very specifically  
24   geared to which physicians prescribe the

1     most Nucynta ER. I didn't mean that as  
2     the exclusive goal. I think that there's  
3     also a goal to grow doctors that have the  
4     potential to be high prescribers, isn't  
5     there?

6                     MS. STRONG: Objection to  
7     form.

8                     THE WITNESS: There -- okay.  
9     So when we go through the  
10    targeting exercise, there's a lot  
11    of factors that went into that  
12    determination of who we would, you  
13    know, target.

14                    I think you're asking is  
15    high prescribing of Nucynta ER a  
16    primary factor?

17    BY MR. JANUSH:

18                    Q.     Yes.

19                    A.     That's your question? I  
20    don't believe that that's correct.

21                    Q.     Okay.

22                    MS. STRONG: Are you leaving  
23    this document?

24                    MR. JANUSH: Possibly.

1 MS. STRONG: For the record  
2 then, if we're leaving this  
3 document, I see you're setting it  
4 aside. I just wanted to know that  
5 on the attachment there's a date  
6 that's 11/27/2018.

7 MR. JANUSH: Yes, that's  
8 because that's the print date.  
9 That's yesterday. So apparently  
10 this PowerPoint was coded a  
11 certain way that when you access  
12 it, it auto populates a new print  
13 date.

14 MS. STRONG: Okay. I just  
15 wanted to make clear for the  
16 record that that what's going on.

17 MR. JANUSH: Again, way too  
18 ethical to play games on stuff  
19 like that.

20 MS. STRONG: Just wanted for  
21 clarity.

22 MR. JANUSH: All right.

23 MS. STRONG: And I was  
24 referring to Exhibit 5 just for

1 the record.

2 BY MR. JANUSH:

3 Q. I'm going to hand you what's  
4 been marked as Exhibit 6.

5 (Document marked for  
6 identification as Exhibit  
7 Janssen-Burns-6.)

8 BY MR. JANUSH:

9 Q. This is a document that is  
10 Bates numbered JAN-MS-02919928.

11 This document came out of  
12 Patricia Yap's custodial file, but it  
13 also has you listed as an all custodian  
14 recipient.

15 And on the first page of  
16 this document, turning your direction  
17 right upfront --

18 MS. STRONG: I don't -- is  
19 there somewhere it shows that  
20 she's an all custodian recipient?

21 MR. JANUSH: Yeah, in  
22 relativity, in your metadata that  
23 you produced.

24 MS. STRONG: Okay. So you

1 are making that representation.

2 MR. JANUSH: I absolutely  
3 am. If you'd like to pause the  
4 deposition to go on Relativity  
5 with me, I have my laptop here  
6 with you.

7 MS. STRONG: No, no. I just  
8 want to be clear as to where that  
9 was coming from. Thank you.

10 MR. JANUSH: You got it.

11 BY MR. JANUSH:

12 Q. Okay. So, "reallocate  
13 effort to increase call frequency against  
14 highest value targets."

15 Do you see that?

16 A. I see it.

17 Q. And do you see the axis,  
18 including the vertical axis showing high  
19 Nucynta ER share, and then at the bottom  
20 of the page, low value?

21 So high value Nucynta ER  
22 share and low Nucynta --

23 A. It doesn't say that.

24 Q. It says low Nucynta --

1           A.     It doesn't -- it doesn't say  
2     high volume.

3           Q.     It says high Nucynta ER  
4     share, right?

5           A.     Correct.

6           Q.     Yeah. And sorry. I was  
7     referring to value targets right above  
8     it. You're --

9           A.     Right.

10          Q.     -- you're right.

11                     But it says low Nucynta ER  
12     share and high Nucynta ER share, right?

13          A.     Correct.

14          Q.     And silver is addressing  
15     2,986 targets. Those are clinicians,  
16     correct?

17          A.     Targets are clinicians.

18          Q.     That's doctors, right?

19          A.     Mm-hmm.

20          Q.     Okay. And it's talking  
21     about 20 -- 21 percent average ER share,  
22     that this silver category comprises  
23     21 percent of the average Nucynta ER  
24     share in prescriptions, right?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: So hold on.  
4 I'm sorry. This is a complicated  
5 document. So let me just kind of  
6 take a minute to look.

7 Also we had many iterations  
8 of this before we finalized it.

9 Do you know if this is a  
10 final version?

11 BY MR. JANUSH:

12 Q. For my purposes and what I'm  
13 questioning you on, it's irrelevant. I  
14 think it actually says draft. What's  
15 relevant for my purposes --

16 A. Okay.

17 Q. -- is that I'm showing you  
18 and seeking to elicit testimony from  
19 you --

20 A. Okay.

21 Q. -- that Nucynta -- that  
22 Janssen tracked highest value targets  
23 based on their prescriptions of Nucynta  
24 ER and their share of Nucynta ER



1     prescriptions. Do you understand that  
2     concept?

3             A.     I understand what you're --  
4                    MS. STRONG: Objection to --  
5             objection to form.

6                    THE WITNESS: I understand  
7             what you said, but it's not  
8             accurate.

9     BY MR. JANUSH:

10            Q.     Okay. Let's go through it.

11            A.     Okay.

12            Q.     Instead of just making  
13     statements that don't answer my question.  
14                    I'm asking you specifically,  
15     silver quadrant, upper left corner, 2,986  
16     targets, correct?

17            A.     That's what I see.

18            Q.     Yep. And it's saying,  
19     "Current effort 21 percent," and that's  
20     referring to sales force effort, isn't  
21     it? That the current sales force effort  
22     targeting these doctors is at 21 percent  
23     and the optimal effort should be  
24     30 percent?

1 MS. STRONG: Objection to  
2 form.

3 Is there a question pending.

4 BY MR. JANUSH:

5 Q. Isn't that right?

6 A. I think you're reading it  
7 correctly. It says current effort 21,  
8 optimal effort 30.

9 Q. Okay. And that's -- and  
10 that's to increase the effort of the  
11 sales force in the highest prescribing  
12 quadrant on this page, fair?

13 MS. STRONG: Objection to  
14 form.

15 THE WITNESS: Not fair,  
16 because there are two axes.  
17 There's a Y and there's an X. You  
18 did definitely highlight the Y  
19 axis. There's also an X axis,  
20 which means the high Nucynta ER  
21 share and low Nucynta ER share is  
22 not the only factor that goes into  
23 deciding, right. It's a  
24 two-by-two. So we have to also

1 look at the low branded LAO and  
2 the high branded LAO as another  
3 factor.

4 BY MR. JANUSH:

5 Q. Okay. So I got one of the  
6 factors right when you target physicians,  
7 that you look at their share?

8 MS. STRONG: Objection to  
9 form.

10 THE WITNESS: Like I said,  
11 there are many factors. One of  
12 the factors is Nucynta ER share.

13 BY MR. JANUSH:

14 Q. Okay. But earlier, when I  
15 asked you that same question, you said  
16 no?

17 MS. STRONG: Objection to  
18 form misstates testimony.

19 THE WITNESS: Your earlier  
20 question asked if the way that  
21 Janssen targeted doctors was  
22 predominately based on Nucynta ER,  
23 high Nucynta ER share. And you  
24 said very, very, very, very

1                   important. And I said that it's  
2                   one of the factors.

3       BY MR. JANUSH:

4                   Q.       Give me a moment to pull  
5       back.

6                               I said, "Yeah, that's a  
7       component of it." I said, "Very, very  
8       specifically geared to which physicians  
9       prescribe the most Nucynta ER. I didn't  
10      mean that as the exclusive goal. I think  
11      that that's also a goal to grow doctors  
12      that have the potential to be high  
13      prescribers, isn't there?" And then you  
14      said, there, "Okay, so" -- I think the  
15      word is wrong here on the transcript, the  
16      word exercise. It says, "There's a lot  
17      of factors that went into that  
18      determination of who we would target.  
19      You're asking is high prescribing of  
20      Nucynta ER a primary factor," and I said,  
21      "Yes." And you said, "That's your  
22      question: I don't believe that's  
23      correct."

24                  A.       Yes.

1           Q.     Now, you're saying I said  
2     earlier that that's one of the factors.  
3     You didn't say that earlier. You said,  
4     "I don't believe that's correct," didn't  
5     you?

6                     MS. STRONG: Objection to  
7     form.

8                     THE WITNESS: I said that  
9     there are a lot of factors that go  
10    into it, right? And that no, I  
11    don't believe that that's correct,  
12    that high Nucynta ER share is the  
13    primary factor. It's not the  
14    primary factor.

15                    I'm trying to be accurate in  
16    my answer, and I'm saying there  
17    are a lot of factors that went  
18    into it. If you have -- if you  
19    ask me to clarify, what was the  
20    primary factor, my answer is not  
21    high Nucynta ER share.

22    BY MR. JANUSH:

23           Q.     What is your answer?

24           A.     I don't really have one for

1 the primary factor that I can recall. I  
2 need to study this and go back --

3 Q. But it's not on this sheet?

4 MS. STRONG: Objection to  
5 form.

6 THE WITNESS: I'm not -- I  
7 didn't say it's not on this sheet.  
8 I didn't say it one way or the  
9 other.

10 BY MR. JANUSH:

11 Q. Okay. Is it -- is -- this  
12 is a sheet that you provided to your  
13 superiors addressing reallocating effort  
14 to increase call frequency against  
15 "highest value targets," and I'm asking  
16 you what is the other factor beyond that  
17 these highest value targets or high  
18 prescribers?

19 A. That's a new question. You  
20 haven't asked that before.

21 Q. I'm asking you that now.

22 A. Okay.

23 MS. STRONG: Just a moment.

24 Objection to form.

1 THE WITNESS: So that's why  
2 I pointed you to the X axis, which  
3 is another point, right? Whether  
4 or not they are low or high  
5 branded long-acting opioid  
6 prescriber. That's one factor.  
7 Current effort is another factor.

8 BY MR. JANUSH:

9 Q. So let's pause and break  
10 that down.

11 A. So that's at least three  
12 now.

13 Q. Okay. So one is, you admit,  
14 high prescriber?

15 A. No.

16 Q. You said that earlier that  
17 it is one of the factors. I'll pull up  
18 your testimony.

19 MS. STRONG: I would just  
20 object. The record speaks for  
21 itself. She's trying to answer  
22 your questions as you're asking  
23 them. I think it would help to  
24 just ask clean questions.

1 BY MR. JANUSH:

2 Q. So --

3 A. Okay.

4 Q. So let me ask -- let me ask  
5 this.

6 You are denying that one of  
7 the reasons to increase call frequency  
8 against highest value targets is because  
9 they are high prescribers? You are  
10 denying that as a factor; is that  
11 correct?

12 MS. STRONG: Objection to  
13 form. Misstates testimony.

14 THE WITNESS: I am saying  
15 that being a high Nucynta ER  
16 prescriber is not the primary  
17 reason for increasing efforts to  
18 call on that doctor.

19 For example, if you look in  
20 the bottom right corner, the  
21 platinum group, current effort is  
22 32 percent. Optimal effort is to  
23 increase it to 39 percent. That  
24 disputes what you said about



1 making -- prioritizing people who  
2 are already high Nucynta ER  
3 prescriber, because these people  
4 are low Nucynta ER prescribers.

5 BY MR. JANUSH:

6 Q. No, it complements it,  
7 doesn't it, because it's targeting the  
8 highest prescribing branded long-acting  
9 opioid doctors that are not prescribing  
10 Nucynta ER.

11 MS. STRONG: Objection.

12 THE WITNESS: That wasn't  
13 a --

14 MS. STRONG: Just a minute.

15 BY MR. JANUSH:

16 Q. I'm just ask --

17 MS. STRONG: Objection to  
18 form.

19 BY MR. JANUSH:

20 Q. I'm saying isn't the bottom  
21 right corner in the platinum target with  
22 2,262 target doctors, the second highest  
23 ranking group of doctors in this grid,  
24 targeting doctors who prescribe a high

1 branded amount of long-acting opioid  
2 products but a low amount of Nucynta?

3 A. What's the question?

4 MS. STRONG: Are you talking  
5 about -- objection to form.

6 BY MR. JANUSH:

7 Q. I asked it. Do you want the  
8 court reporter to read it for you?

9 A. Sure.

10 Q. Okay.

11 MR. JANUSH: From 186:22.

12 (Whereupon, the requested  
13 portion of the testimony was read  
14 back by the court reporter.)

15 THE WITNESS: I don't hear a  
16 question in that.

17 BY MR. JANUSH:

18 Q. Let me say it again.

19 Isn't -- "isn't" is the start of a  
20 question.

21 A. Okay.

22 Q. Isn't the bottom right  
23 corner in the platinum target with 2,262  
24 targets, which happens the second highest

1 ranking group on this grid being targeted  
2 because they are high prescribers of  
3 branded long-acting opioids but also  
4 happen to have a low Nucynta prescription  
5 rate, question mark?

6 MS. STRONG: Objection to  
7 form.

8 THE WITNESS: Okay. So  
9 first of all, at the beginning of  
10 your question, you said the  
11 platinum group with 2,262 targets  
12 is the highest --

13 BY MR. JANUSH:

14 Q. Second highest.

15 A. -- the second highest --

16 Q. On this grid.

17 A. -- ranking group?

18 Q. I'm -- let me -- instead of  
19 mincing every word with me, I'm  
20 addressing the sheer numbers of targets  
21 on the grid. Can you appreciate that  
22 gold has 366 targets, bronze has 985 --

23 A. You mean the largest number,  
24 the largest group, the second largest

1 group?

2 Q. That's what I'm saying.

3 MS. STRONG: Objection.

4 Just a minute. Let's have a  
5 question and an answer. And keep  
6 it --

7 THE WITNESS: Okay. So I'm  
8 not mincing words. But I am  
9 accurate -- I'm trying to be  
10 accurate in my answer because we  
11 did not consider the platinum  
12 group the second highest ranking  
13 group. If you're saying the  
14 second largest group, yes, that's  
15 correct.

16 BY MR. JANUSH:

17 Q. Okay. That's what I'm  
18 saying.

19 A. Okay. So -- but you can  
20 understand that I'm confused.

21 Q. Second largest group of  
22 doctors is the platinum group, right?

23 A. Correct.

24 Q. And that's the group where

1     you're saying the optimal effort should  
2     be increased from the current effort of  
3     32 percent to 39 percent, correct?

4             A.     Correct.

5             Q.     And that's the group that  
6     only prescribes 3 percent average Nucynta  
7     ER share, correct?

8             A.     Correct.

9             Q.     But they happen to have a  
10    high number of total prescriptions,  
11    29,977 -- 29,777 LAO total prescriptions  
12    across this doctor group in the high  
13    branded LAO market, right?

14                    MS. STRONG: Objection to  
15                    form.

16                    THE WITNESS: That defines  
17                    that group in the lower right  
18                    corner.

19    BY MR. JANUSH:

20             Q.     Okay. So sales efforts are  
21    being increased for targets i.e.,  
22    doctors, who prescribe a lot of branded  
23    LAO, correct?

24                    MS. STRONG: Objection to

1 form.

2 THE WITNESS: For the  
3 platinum group, yes.

4 BY MR. JANUSH:

5 Q. Okay. And sales efforts are  
6 also being increased for the silver group  
7 that prescribe the largest amount of  
8 average Nucynta ER share, correct?

9 MS. STRONG: Objection to  
10 form.

11 THE WITNESS: Correct.  
12 According to this, yep.

13 BY MR. JANUSH:

14 Q. And sales efforts are being  
15 decreased from 40 percent to 25 percent  
16 for your bronze group that has the lowest  
17 branded long-acting opioid prescription  
18 and the lowest Nucynta ER share, correct?

19 MS. STRONG: Objection to  
20 form.

21 THE WITNESS: According to  
22 this, yes, correct.

23 BY MR. JANUSH:

24 Q. Okay. And in the gold

1 category, there are 366 target doctors,  
2 clinicians, correct?

3 A. As it's -- that's what this  
4 shows.

5 Q. Right.

6 A. But again, I just want to  
7 emphasize, I don't know if this was the  
8 final. So the final number could have  
9 been a little bit different.

10 Q. Okay. But at this point in  
11 time --

12 A. At this point in time --

13 Q. -- when you drafted it to  
14 your bosses, this is what you included,  
15 right?

16 MS. STRONG: Objection to  
17 form.

18 THE WITNESS: I -- that's  
19 what I see at this point in time.  
20 I don't know if I was the one who  
21 drafted this version.

22 BY MR. JANUSH:

23 Q. Fair. So as I look at this,  
24 it seems like for the silver group, high

1     prescribers of Nucynta share, Nucynta ER  
2     share, were being targeted for increased  
3     sales efforts. Yes or no?

4             A.     No.

5             Q.     You -- you don't agree  
6     that -- that 21 percent average ER share  
7     represents on this grid the highest  
8     average ER share amongst the groups?

9             A.     So I want to be accurate in  
10    my answer. You said that we, at this  
11    point in time, were targeting prescribers  
12    who had high Nucynta ER share.

13            Q.     Pause. That wasn't my  
14    question. Move to strike, nonresponsive.

15                    I said, so as I look at this  
16    group it seems for the silver group, high  
17    prescribers of Nucynta share, Nucynta ER  
18    share, were being targeted for increased  
19    sales efforts. Yes or no.

20            A.     Oh, okay.

21                    MS. STRONG: Objection to  
22    form. And there's no need to  
23    harass the witness.

24                    MR. JANUSH: I'm not



1           harassing. She was answering a  
2           question I didn't ask. I move to  
3           strike.

4                   MS. STRONG: That is not --  
5           your questions are extremely  
6           confusing and hard to follow.  
7           She's doing the best she can. So  
8           just please --

9                   MR. JANUSH: No speaking  
10          objections --

11                   MS. STRONG: Please use  
12          respect for the witness.

13                   THE WITNESS: So if you're  
14          talking -- I missed that part  
15          about the silver. I thought you  
16          meant everything above the line.

17                   MR. JANUSH: Okay.

18                   THE WITNESS: So if you're  
19          just restricting it to the silver  
20          group, the silver group does have  
21          high Nucynta ER share.

22   BY MR. JANUSH:

23           Q.     The highest on this grid,  
24   correct?

1           A.     The highest on the grid.

2           Q.     And they also have an  
3     increase in optimal sales efforts listed  
4     as compared with the current 21 percent  
5     effort, correct?

6           A.     That's what it shows.

7           Q.     Okay. And the targets in  
8     bronze that have the lowest average share  
9     have a decreased suggested optimal sales  
10    force -- sales force effort, right?

11          A.     Yes, and they also have low  
12    branded long-acting opioid.

13          Q.     Right. So these are folks  
14    that are the least likely to prescribe  
15    long-acting opioid drugs --

16          A.     In general.

17          Q.     -- in general?

18          A.     Mm-hmm.

19          Q.     Actually I want to address a  
20    couple more things on this document.

21    This document also addresses that an  
22    Excel file with preliminary -- excuse  
23    me -- with preliminary target lists for  
24    each territory will have the following

1 columns: Territory, a J&J -- that's  
2 Johnson & Johnson -- ID for a doctor; is  
3 that right?

4 A. I believe so.

5 Q. And that's an IMS ID for a  
6 doctor; is that right?

7 A. I believe so.

8 Q. And here they are segmented,  
9 that's their classification as to whether  
10 they are platinum, or silver or gold or  
11 bronze, right?

12 A. Correct.

13 Q. And then their name, the  
14 address, city, state, zip, et cetera.

15 And it says, "There will be  
16 a column, this column will list the  
17 recommended action for each HCP."

18 And it seems like  
19 recommended actions included, may have  
20 not been limited to, start calling and  
21 stop calling. Do you see that?

22 A. I see it.

23 Q. Okay. And in addition, it  
24 says it in the red bubble that I'm

1 pointing to, "Market, ER and Nucynta  
2 usage in the past 12 months will be  
3 included."

4 So the past 12 months of  
5 total prescriptions, that's ER TRx stands  
6 for Nucynta ER total prescriptions, are  
7 being listed next to the doctor's name;  
8 is that right?

9 A. That's what it looks like,  
10 yeah.

11 Q. And it also says, "Nucynta  
12 ER share will be listed as well."  
13 That's -- that's their total share of  
14 prescribing within their territory or  
15 district, right?

16 A. I am not sure. I didn't  
17 produce this document. So this is my  
18 first time sort of looking at this. I  
19 don't know, where it says Nucynta ER  
20 share, I don't know share of what.

21 Q. Got it.

22 A. It could be share of  
23 long-acting opioid. It could be share of  
24 CII. It could be share of, you know.

1 So -- but it's some kind of a share.

2 Q. Okay. And then if you move  
3 forward a few pages there's back-up for  
4 this presentation, back-up for  
5 discussion, and it's addressing "Nucynta  
6 ER called on share growth in 2H 2013."

7 Do you see that?

8 A. Yes.

9 Q. Okay. And it seems like  
10 long-acting opioid share change is being  
11 reviewed by -- compared to the prior  
12 month, for a three-month average from  
13 December 12, 2201 to December 2013. Do I  
14 have that about right?

15 A. Yeah, it looks like.

16 Q. Okay. And in order to get  
17 this data, the source at the bottom  
18 states, "IMS Xponent monthly,  
19 December 2013," and it also states, "Pain  
20 force targets 4Q '13."

21 IMS Xponent monthly, do you  
22 know what that is?

23 A. I mean I know it's IMS data.

24 Q. That's -- isn't it right,

1     that Xponent is the monthly, like  
2     prescriber level, granular level  
3     prescription tracking data?

4                   MS. STRONG:  Objection to  
5     form.

6                   THE WITNESS:  You know, I'm  
7     not -- I'm not the expert in IMS  
8     data.  Because different types of  
9     data have different levels of  
10    details.

11  BY MR. JANUSH:

12           Q.     Right.

13           A.     I think this is prescription  
14  data.

15           Q.     Okay.

16           A.     For just the -- just the  
17  targets that the pain force calls on.  
18  Not the entire universe.

19           Q.     We -- I'm with you.

20           A.     Okay.

21           Q.     And earlier we went through  
22  a lot of discussion on a goal to grow  
23  platinum targets.  And I used the words  
24  "very, very, very" when prescribing the

1 intent to grow platinum targets. So  
2 let's look at the slide that says, "We  
3 are growing." I have it up, you have it  
4 up in front of you.

5 "We are growing Nucynta ER  
6 share with 40 percent of platinum targets  
7 in the most recent three months!"

8 Did I read that right?

9 MS. STRONG: And just a  
10 moment. I would object to the  
11 commentary that you're inserting  
12 in -- before you ask the question.  
13 I would please ask that you not  
14 comment on testimony as you  
15 proceed.

16 MR. JANUSH: Well, I'm  
17 refreshing the memory that earlier  
18 we addressed this issue and now  
19 I'm coming back to it.

20 MS. STRONG: I believe you  
21 were trying to do more than that.  
22 But we'll proceed.

23 THE WITNESS: I'm looking at  
24 this page.

1 BY MR. JANUSH:

2 Q. Okay. So here, is it the  
3 case that growers is referring to 793  
4 healthcare practitioners whose share  
5 changed by 38 percent or is it that they  
6 represent that the growers represented  
7 38 percent of total Nucynta ER  
8 prescriptions?

9 MS. STRONG: Objection.

10 BY MR. JANUSH:

11 Q. I'm just trying to  
12 understand.

13 MS. STRONG: Objection to  
14 form.

15 THE WITNESS: Okay. Let me  
16 study this. I don't recall this  
17 exactly.

18 I would interpret this to be  
19 that 38 percent of the people in  
20 the platinum group grew.

21 BY MR. JANUSH:

22 Q. Okay. And --

23 A. And then the rest, you know,  
24 either decline or whatever.



1           Q.     Got it. Okay. And then  
2     here, again for this data it looks like  
3     Janssen is using IMS Xponent monthly  
4     data. Is that a fair understanding on my  
5     part?

6           A.     That looks like it's the  
7     source.

8           Q.     Okay.

9           A.     But again, it's only for the  
10    limited targets that the reps called on.

11          Q.     Okay. And then on the last  
12    page, it's showing that all seven  
13    districts showing growth in Nucynta ER  
14    platinum share in recent three months.  
15    Do you see that?

16          A.     I see the page.

17          Q.     Okay. So this is just  
18    analyzing previous three-month share,  
19    current three-month share; is that right?

20          A.     So it looks -- it seems to  
21    be, looking at the platinum group again,  
22    yeah, three months over three months.

23          Q.     Okay.

24          A.     Mm-hmm.

1 Q. And that's what three by  
2 three refers to?

3 A. Mm-hmm.

4 Q. Okay. Let's put that  
5 document aside. I'll move onto  
6 Exhibit 7.

7 (Document marked for  
8 identification as Exhibit  
9 Janssen-Burns-7.)

10 MR. JANUSH: It's Bates  
11 marked JAN-MS-0077224.

12 BY MR. JANUSH:

13 Q. This came from your  
14 custodial file production, I'll  
15 represent. And this first page, pain  
16 force. This is referring to that, that  
17 77 sales rep force from Quintiles; is  
18 that right?

19 A. Yes.

20 Q. Okay. And today's agenda,  
21 performance review, messaging and  
22 resources, second half game plan. Is  
23 second half game plan referring to like  
24 second half of the year?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: Actually, I  
4 was -- I was going to ask, is  
5 there a date on this document? I  
6 have no idea what year or month  
7 this was.

8 BY MR. JANUSH:

9 Q. It's dated by some of the  
10 data that's in it, I believe. But for  
11 example there is data from IMS in March  
12 of '13, and the last month tracked at  
13 Page 10 is December of '13. So I'm  
14 assuming it runs -- it's current at least  
15 through December '13 based on the sales  
16 data that's tracked.

17 MS. STRONG: Objection.

18 MR. JANUSH: Well, that's --

19 MS. STRONG: It misstates on  
20 what's on Page 10. It looks like  
21 it's a forecast. I doesn't look  
22 like an actual, so I don't know  
23 that that's what that reflects.

24 MR. JANUSH: While my

1           colleague, Ian Millican, is  
2           getting -- is getting this  
3           information, I can say this much.

4   BY MR. JANUSH:

5           Q.     On the top of Page 8, it  
6           says, "March 2013 exceeded forecast by  
7           plus 2 percent." So it's at least  
8           March 2013. Hopefully that helps us  
9           until we get the actual metadata.

10                  The IMS Xponent data is  
11           dated on Page 12 as March 29, 2013. So  
12           that further helps date this document.

13           A.     Okay. I'm flipping through.  
14           And I'm not sure what this is for.

15           Q.     Let me ask you a question.  
16           On Page 5, "Pain force vision. Dedicated  
17           to renewing hope and transforming lives  
18           of those impacted by pain."

19           A.     I'm sorry.

20           Q.     The question is this. Whose  
21           hope -- what hope was Janssen dedicated  
22           to renewing?

23                  MS. STRONG: Objection to  
24           form.

1                   THE WITNESS: Okay. So let  
2                   me think back. It's been a while.  
3                   I'm just trying to remember. I  
4                   think this was hope for patients  
5                   and hope for clinicians, probably  
6                   predominately.

7                   That's just my best  
8                   recollection at this time.

9       BY MR. JANUSH:

10                Q.       What studies did Janssen do  
11                in order to determine that patients  
12                needed renewed hope concerning their pain  
13                treatment options?

14                MS. STRONG: Objection to  
15                form.

16                THE WITNESS: So first I  
17                want to clarify. When we have a  
18                vision like this, this is an  
19                internal statement. This is  
20                something that is typically  
21                created to inspire people, you  
22                know, to do the best that they  
23                can, whether you're in marketing,  
24                whether you're in sales, because

1           we're in healthcare, because we  
2           care about, you know, the people  
3           we serve.

4                    So this is not something  
5           that would be shown outside. It's  
6           really for internal sort of  
7           motivation. Okay.

8                    So to your question about  
9           what research did we do to better  
10          understand that patients need  
11          hope?

12   BY MR. JANUSH:

13           Q.     Needed renewed hope.

14           A.     Needed -- right. I would  
15   say that there was no specific research  
16   that we did in order to do this. It was  
17   understanding of the marketplace,  
18   understanding that patients with chronic  
19   pain really suffer for many, many years.  
20   And many of them are depressed because  
21   pain is very debilitating.

22                    So it's more of  
23   understanding, you know, the feeling that  
24   a lot of chronic pain patients have

1 through, you know, whether, you know,  
2 it's medical affairs person or sales or,  
3 you know, interaction in the marketplace.  
4 That's how we came to have that  
5 understanding.

6 Q. Earlier I asked what studies  
7 did Janssen do in order to determine that  
8 patients needed renewed hope concerning  
9 their pain treatment options. Is the  
10 answer to my question, we didn't do any  
11 studies?

12 A. No.

13 MS. STRONG: Objection to  
14 form.

15 THE WITNESS: No.

16 BY MR. JANUSH:

17 Q. On that topic?

18 A. No. I was answering in the  
19 context of your showing this to me, that  
20 this was our pain force vision. And as I  
21 explained, this is meant to be an  
22 internal motivator, right. So when we  
23 crafted this vision, we didn't say, okay,  
24 we need to craft a vision, let's go do

1     some research. No, we didn't do it that  
2     way.

3                     It's based on knowledge that  
4     we have gained over time collectively  
5     through a lot of different sources to  
6     understand that chronic pain patients  
7     suffer greatly, and many of them are  
8     depressed and many of them lose hope,  
9     hope about ability to function, hope  
10    about ability to go on with normal life  
11    that we take for granted.

12                    So that's what we're saying  
13    is we are bringing an option to the  
14    marketplace that hopefully can properly  
15    treat their chronic pain, so that they  
16    can function like a normal human being,  
17    and that's renewing hope about what they  
18    can look for in life. That's how we got  
19    there.

20                   Q.     What, if anything, did you  
21    personally do to confirm the marketing  
22    slogan here that patients needed renewed  
23    hope?

24                   MS. STRONG:   Objection to



1 form.

2 THE WITNESS: As I explained  
3 before, this is not a marketing --  
4 what did you say?

5 BY MR. JANUSH:

6 Q. Slogan, a vision.

7 A. Slogan. It's not a  
8 marketing slogan. Okay. A marketing  
9 slogan would be something that we  
10 communicate externally. This is not it.  
11 This is something that no one outside the  
12 company would see.

13 Q. So what did you do to  
14 confirm the marketing vision that  
15 patients needed renewed hope?

16 MS. STRONG: Objection to  
17 form.

18 THE WITNESS: We didn't  
19 create the vision and then go test  
20 it to confirm. This is a vision  
21 that you develop based on what you  
22 know about the marketplace and  
23 about what we collectively as a  
24 team wanted to accomplish.

1                   And -- but it's rooted in  
2                   deep understanding about the  
3                   marketplace and about the patients  
4                   and what they suffer through.

5       BY MR. JANUSH:

6               Q.     I'm going to jump to the  
7                   last page of this PowerPoint before  
8                   moving on. It says, "Are you ready to  
9                   lead the pack and become a Fast Start  
10                  contest winner?"

11                   What is a Fast Start  
12                  contest?

13                   MS. STRONG: Objection to  
14                  form.

15                   THE WITNESS: I don't know  
16                   about the particular detail of the  
17                   contest itself because Quintiles  
18                   is the company that would  
19                   administer anything that has to do  
20                   with pay.

21                   But Fast Start refers to --  
22                   it's a common term that Janssen  
23                   uses to mean a -- kind of like an  
24                   early in the year sales meeting or

1 sales initiative, perhaps in the  
2 January/February time frame and it  
3 is meant to convey like a fast  
4 start, as in let's get started,  
5 the year, you know, on a good  
6 foot.

7 BY MR. JANUSH:

8 Q. I'm going put that away.

9 And move on to Exhibit 8.

10 (Document marked for  
11 identification as Exhibit  
12 Janssen-Burns-8.)

13 MR. JANUSH: This is  
14 JAN-MS-00772413.

15 BY MR. JANUSH:

16 Q. It's the creative brief that  
17 has your name on it as the marketing  
18 project leader. And it has an agency  
19 project leader name of Lori Schuermann.  
20 I'm going to point it to make it easier  
21 for you to see what I'm looking at.

22 Okay.

23 I appreciate that this is an  
24 unsigned document. So the first question

1 I have is, who would have created the  
2 creative brief, the agency? It's on  
3 Janssen letterhead. That's why I'm  
4 asking. Is it Janssen or the agency?

5 MS. STRONG: Objection to  
6 form.

7 THE WITNESS: I don't know.  
8 I see that it's on the Janssen  
9 letterhead. I can't tell you for  
10 sure if I drafted it or the agency  
11 drafted it or, you know, we could  
12 have sort of done it together.

13 BY MR. JANUSH:

14 Q. So I want to focus on the  
15 middle of the page, the who. Who do we  
16 need to reach here, the audience. And it  
17 states, "Patients who suffer from chronic  
18 pain and just received the prescription  
19 for Nucynta ER from their physician for  
20 the first time demographically, according  
21 to the 2009 patient segmentation study,  
22 our patient is defined as: Approximately  
23 40 to 50 years old, mix of male and  
24 female through slightly more female" --

1 "though slightly more females suffer from  
2 chronic pain as they age; would have  
3 commercial insurance to afford the  
4 medication and qualify for the co-pay  
5 card; has a median household income of  
6 \$55,000; and is less likely to have  
7 completed college (from 2009 study); is  
8 being treated for moderate to severe  
9 chronic pain."

10 I'm going to stop reading  
11 before it gets into the, "Psychologically  
12 our target is" -- or, "Psychologically  
13 our target:"

14 This language,  
15 demographically speaking, according to  
16 the 2009 patient segmentation study, our  
17 patient is defined as, seems to imply  
18 that the "our" is referring to Janssen;  
19 is that right?

20 MS. STRONG: Objection to  
21 form.

22 THE WITNESS: So a couple of  
23 things. First, the 2009 patient  
24 segmentation study would have been

1 completed prior to me joining the  
2 team, so I don't know the details  
3 of that study.

4 In the context of what I'm  
5 reading here, our patient doesn't  
6 mean they're -- they're not  
7 patients who are already on  
8 Nucynta ER. It means our -- I  
9 think -- I believe it's meant to  
10 mean our target patient is, as in  
11 these are the people who we want  
12 to talk to.

13 BY MR. JANUSH:

14 Q. Okay. And it looks like  
15 you're saying, if these are the people we  
16 want to talk to, the first sentence  
17 states, "Patients who suffer from chronic  
18 pain and just received a prescription for  
19 Nucynta ER from the physician for the  
20 first time." Is that right?

21 MS. STRONG: Objection to  
22 form.

23 THE WITNESS: That's what it  
24 says.

1 BY MR. JANUSH:

2 Q. Okay. So they are not  
3 people who have never gotten a  
4 prescription. They just received it for  
5 the first time?

6 A. So that's the intent of the  
7 creative brief is to define who it is  
8 that we are talking to. And in this  
9 case, we want to talk to the patients as  
10 described here. They have chronic pain,  
11 they have just received Nucynta ER from a  
12 prescription from their physician,  
13 meaning that we're not meant to plaster  
14 this thing everywhere. It has to be a  
15 patient that's already being considered  
16 for Nucynta ER.

17 Q. Okay. Why was the target  
18 patient folks with a median household  
19 income of \$55,000, but who are less  
20 likely to have completed college?

21 MS. STRONG: Objection to  
22 form. Misstates what the document  
23 says.

24 BY MR. JANUSH:

1           Q.     Well, I'll read it. Let me  
2     restate it. "Has a median household  
3     income of \$55,000 and is less likely to  
4     have completed college (from 2009  
5     study)."

6                     Why was that a component of  
7     the target patient?

8                     MS. STRONG: Objection to  
9     form.

10                    THE WITNESS: So as I stated  
11     before, I was not involved in that  
12     2009 patient segmentation study.  
13     But this would have come from  
14     there, which the intent for a  
15     segmentation study in general,  
16     which, you know, again, I wasn't  
17     involved in this particular one,  
18     is to identify groups of patients  
19     that are appropriate, and based on  
20     that study looks like these bullet  
21     points represent the people that  
22     the team had decided that these  
23     are the appropriate people that --  
24     that they want to talk to.



1 BY MR. JANUSH:

2 Q. So you can't answer, from  
3 your perspective, from your personal  
4 knowledge, why these people with median  
5 household income of \$55,000 but who are  
6 less likely to have completed college  
7 would be potential Nucynta ER targets?

8 A. No. I can't answer. Other  
9 than the fact that, you know, typically a  
10 study like that would look at a lot of  
11 patients and would collect the data. It  
12 looks like this is the kind of data that  
13 they collected.

14 Q. When the creative brief was  
15 written, would you have wanted to go back  
16 and actually look at the 2009 study  
17 before including it in -- in this  
18 document?

19 A. Would I have wanted to?

20 Q. Yes.

21 A. I don't know what I wanted  
22 back then.

23 Q. Do you believe you should  
24 have?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: I don't -- no.

4 BY MR. JANUSH:

5 Q. No. You're comfortable  
6 citing aspects of studies, outcomes of  
7 studies in your own written work product  
8 where you've never read the underlying  
9 study?

10 MS. STRONG: Objection to  
11 form.

12 THE WITNESS: So when you  
13 work on a brand, the brand lasts  
14 for a long time, you come and go.  
15 There are decisions that are made  
16 prior to you getting here, and  
17 there's some decisions that are  
18 made after you leave.

19 There was no -- at the time,  
20 there was no question about who  
21 the patients are that we were  
22 targeting, there was no reason to  
23 question the work or the decision.  
24 So, no.

1 BY MR. JANUSH:

2 Q. Okay. We are marking  
3 JAN-MS-00238968 -- excuse me. 9698.  
4 That's 002389698 as Exhibit 9.

5 (Document marked for  
6 identification as Exhibit  
7 Janssen-Burns-9.)

8 BY MR. JANUSH:

9 Q. And this is a document  
10 entitled Pain Business Review dated  
11 April 23, 2014. It is a draft document.

12 I want to ask you a question  
13 concerning something that seems to appear  
14 in a number of Janssen documents. And it  
15 concerns this statement on Page 2, "Large  
16 unmet need for patients suffering from  
17 pain."

18 Do you know what the basis  
19 is for Janssen's position in 2014 that  
20 there was a large unmet need for patients  
21 suffering from pain?

22 A. I can't speak for Janssen as  
23 a whole. I can -- I can explain to you  
24 from my point of view, if that's fine.

1 Q. Sure.

2 A. Okay. So despite all the  
3 drugs out there to treat chronic pain,  
4 there's still a lot of people who are  
5 suffering from chronic pain where nothing  
6 helps, nothing relieves the pain enough  
7 that they can function normally. People  
8 are debilitated. They can't do things  
9 that regular people can do. Therefore,  
10 there's an unmet need because the  
11 products that are available to treat and  
12 control pain are not working for  
13 everyone. And there's still a large  
14 number of patients who continue to suffer  
15 and, therefore, there's an opportunity to  
16 bring products that can maybe relieve  
17 pain for those people who haven't been  
18 able to find it.

19 Q. What do you base that on?

20 A. A lot of places, people have  
21 pain, from talking to doctors, through  
22 market research, through interacting with  
23 them. When you talk about the  
24 perspective of pain, about the patients

1     that they see. People, people that  
2     people know, you know. People have  
3     relatives that can't do things because  
4     they suffer from pain who have tried  
5     everything. Not just pharmaceutical  
6     drugs, but procedures as well.

7                     So I think it's -- it's, you  
8     know, a variety of sources confirm that  
9     notion that it's still a big issue out  
10    there, a medical need out there.

11            Q.     Nothing that you testified  
12    about just now included the subject of  
13    studies of research though. Is that fair  
14    to say?

15                   MS. STRONG: Objection to  
16    form.

17                   THE WITNESS: No. No,  
18    that's not fair to say. So when I  
19    talk about feedback from patients  
20    and -- and doctors, that's  
21    through -- part of it is through  
22    market research and part of it is  
23    through conversation. So I would  
24    say that research is part of that.

1 BY MR. JANUSH:

2 Q. So market research conducted  
3 by whom?

4 A. Janssen.

5 Q. So your own company's market  
6 research helps support the notion that  
7 there's a large unmet need for patients  
8 suffering from pain?

9 A. Yes.

10 Q. What about outside of  
11 Janssen, what work was done outside of  
12 Janssen, unfunded by Janssen, to support  
13 the notion that large unmet need for  
14 patients -- that there's a large unmet  
15 need for patients suffering from pain in  
16 2014?

17 MS. STRONG: Objection to  
18 form.

19 THE WITNESS: You're asking  
20 what other sources of information  
21 confirm that, that Janssen didn't  
22 sponsor?

23 BY MR. JANUSH:

24 Q. No, that's not -- that's not

1     what I'm asking.

2                     All right. What I asked  
3     was: What about outside of Janssen, what  
4     work was done outside of Janssen,  
5     unfunded by Janssen, to support the  
6     notion that large unmet need for  
7     patients -- that there was a large unmet  
8     need for patients suffering from pain in  
9     2014?

10                    MS. STRONG: Objection to  
11                    form.

12                    THE WITNESS: Right. So  
13                    that's what I wanted to clarify.  
14                    When you say work done outside of  
15                    Janssen, not funded by Janssen,  
16                    that's work that anyone would have  
17                    done?

18     BY MR. JANUSH:

19                    Q.     Yeah.

20                    A.     That we weren't related to.

21                    Q.     Yep.

22                    A.     So what sources are out  
23     there.

24                    Plenty of articles like peer

1 review journals in the pain space. When  
2 people publish, a lot of times the  
3 beginning sort of section of papers that  
4 are published talk about an overview of  
5 the marketplace. You know, there's a  
6 large unmet need. It might cite, you  
7 know, number of patients suffering from  
8 pain. So I would say that it's quite  
9 broad.

10 You can go to any pain  
11 journal, pick up articles and that  
12 sentiment is -- is broadly understood and  
13 accepted.

14 Q. As you sit here today,  
15 can you cite to any specific journal  
16 article that -- that would support this  
17 concept?

18 A. I can't cite anything in  
19 particular, but I can tell you that if  
20 you go to, you know, any major pain  
21 publication, any major pain conference,  
22 you will hear people talk about unmet  
23 need. That is why people still pour  
24 effort into looking for therapies that



1 will work for people with chronic pain,  
2 whether it's pharmaceuticals or  
3 procedures. That's why people invest in  
4 that area, because there's so much unmet  
5 need.

6 Q. I'm going to move to  
7 Slide 7. Actually before I do that, yes.

8 It says, "CII market growth  
9 has slowed in recent years due to policy  
10 efforts to curb abuse."

11 When this was written in  
12 2014, did you share that understanding,  
13 that because policy efforts to curb abuse  
14 existed, that market growth has slowed in  
15 recent years?

16 MS. STRONG: Objection to  
17 form.

18 THE WITNESS: Did I agree --  
19 did I personally agree with this?

20 BY MR. JANUSH:

21 Q. Mm-hmm. Yes.

22 A. Yeah. I would say.

23 Q. And despite sharing the  
24 understanding that policy efforts were

1     underway to curb abuse, your pain force  
2     specialty sales team was working under a  
3     sales model that in part focused on  
4     getting Nucynta ER into high value  
5     prescribers, wasn't it?

6                   MS. STRONG:  Objection.  
7                   Objection to form.

8                   THE WITNESS:  Into high -- I  
9                   think you're kind of connecting  
10                  things that maybe shouldn't be  
11                  connected.

12    BY MR. JANUSH:

13                  Q.     I'm addressing that there's  
14                  a general environment that you have  
15                  recognized that there's policy efforts to  
16                  curb abuse and -- let me connect this for  
17                  a moment.  I'll just take a step back.

18                         Do you agree with the  
19                  principle that the more opioid products  
20                  that are out in the marketplace, the  
21                  greater the risk for opioid abuse?

22                         MS. STRONG:  Objection to  
23                  form.

24                         THE WITNESS:  That the more

1           opioids out there in the  
2           marketplace, there is more abuse?

3       BY MR. JANUSH:

4           Q.     Yes.

5                   MS. STRONG:  Objection to  
6           form.

7                   THE WITNESS:  No.

8       BY MR. JANUSH:

9           Q.     No?

10          A.     No.  Because there are many  
11       factors that lead to abuse and not -- and  
12       using opioids for a legitimate reason,  
13       for example, for chronic pain doesn't  
14       mean that you're abusing it.

15          Q.     So I wasn't saying that  
16       because there might be people using  
17       opioids for chronic pain doesn't mean  
18       they're abusing it.  I was addressing the  
19       general principle that the more opioids  
20       that are out -- prescribed and in the  
21       market, the greater the risk for abuse,  
22       and you don't agree with that; is that  
23       right?

24                   MS. STRONG:  Objection to

1 form.

2 THE WITNESS: I don't agree  
3 with it, no.

4 BY MR. JANUSH:

5 Q. We talked about pain force  
6 specialty model focusing on high value  
7 prescribers earlier.

8 And is it correct that the  
9 pain specialists that this pain force  
10 focused on included anesthesiologists --  
11 I'm at Page 10 -- physical, medical and  
12 rehabilitation specialists, pain  
13 specialists, and rheumatologists?

14 MS. STRONG: Objection.  
15 Again, I'd ask that you not  
16 characterize prior testimony  
17 before asking the question.

18 THE WITNESS: According to  
19 this, it looks like that's how  
20 we're defining pain specialist.

21 BY MR. JANUSH:

22 Q. Okay. And so high value  
23 prescribers -- the group of high value  
24 prescribers included pain specialists.

1 That included --

2 A. As defined --

3 Q. As defined below. PCPs,  
4 that's primary care physicians, right?

5 A. Correct.

6 Q. NPs and PAs, that's nurse  
7 practitioners and physician assistants?

8 A. Correct.

9 Q. And there's a group of other  
10 that's 9 percent and that's undefined; is  
11 that right?

12 A. Correct.

13 Q. I'm going to move on to  
14 slide 20. And this is addressing the new  
15 commercial model in 2013 with pain force,  
16 according to the title. It states here  
17 that there are three hiring criteria for  
18 pain force DNA.

19 Clinical expertise,  
20 marketplace savvy, and thriving in  
21 ambiguity.

22 What does it mean for  
23 someone to have in their DNA that they  
24 thrive in ambiguity?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: So I don't  
4 recall the specific conversations  
5 about that.

6 What I do remember is that  
7 we wanted the pain force sales  
8 team to be able to operate well  
9 with -- in the face of, you know,  
10 ambiguity, meaning things aren't  
11 going to be certain. There could  
12 be a lot of changes. It could be  
13 that -- because we are forming a  
14 new team and we're trying out  
15 certain models, we want them to be  
16 able to navigate if things change  
17 and react, you know, well to that.  
18 Just not someone who is rigid and  
19 needs certain sort of steady  
20 environment to work in.

21 BY MR. JANUSH:

22 Q. Okay. This doesn't have a  
23 number. It looks like it's 29. So look  
24 for Slide 30 and peel back one page. Are

1     you with me?

2             A.     Mm-hmm.

3             Q.     Okay. This is a similar  
4     chart concerning silver, gold, bronze,  
5     and platinum that we saw earlier, just  
6     without corresponding prescription  
7     numbers; is that right?

8             A.     Yes.

9             Q.     And it's addressing that in  
10    2014, your -- your target optimization  
11    has led to a decrease of ten -- from  
12    10,000 healthcare practitioners to 8,000  
13    and now it looks like 7,000 healthcare  
14    practitioners is the goal; is that right?

15            A.     Yes. Looks like it.  
16    Mm-hmm.

17            Q.     Okay. And turn to Page 74  
18    if you will.

19            A.     Is this a mixture of  
20    different decks? Because they don't even  
21    look the same.

22            Q.     It's actually one deck that  
23    was produced as one deck, at least how we  
24    got it.

1           A.     Okay. And this is from my  
2     file?

3           Q.     It is from your custodial  
4     file.

5           A.     Okay.

6           Q.     Actually, it came from, the  
7     initial primary custodian, is it Ron --  
8     is it Kuntz?

9                     MS. STRONG: Kuntz.

10                    THE WITNESS: Kuntz.

11     BY MR. JANUSH:

12           Q.     And you are listed as  
13     custodian all on the metadata, that you  
14     would have received this.

15           A.     Okay. I'm on Page 74.  
16     Okay. So this is listed in the backup  
17     section of this -- I mean, on this deck.

18           Q.     Mm-hmm.

19           A.     Okay.

20           Q.     Moving to the middle of the  
21     page, and addressing dual MOA -- that  
22     stands for mode of action, right?

23           A.     Mechanism of action.

24           Q.     Mechanism of action, right.



1 With -- is it mu or mu?

2 A. Mu.

3 Q. Mu opioid agonism and  
4 norepinephrine reuptake inhibition. And  
5 this is -- this is -- falls within  
6 bullets under RTBs. What does RTB stand  
7 for?

8 A. Reason to believe.

9 Q. Okay. So reason to believe  
10 in what?

11 A. Okay. So this here says  
12 positioning statement. Positioning  
13 statement is a marketing form. I don't  
14 know what the right word is, but for  
15 every product that you market, you want  
16 to have a positioning statement, which is  
17 an internal document that talks about --  
18 about your product, who it's for, what  
19 it's good for, why should you believe  
20 that, you know, these are the benefits.

21 So it's -- it's kind of  
22 internal-facing document. It's not  
23 something that you would show to someone  
24 external. And some of it can be

1 aspirational as well, that you can't  
2 deliver on today, but maybe in the  
3 future, depending.

4 Q. Do you know whether the  
5 concept of dual mechanism of action with  
6 mu opioid agonism and norepinephrine  
7 reuptake inhibition went beyond internal  
8 aspirational statements and made it to  
9 the outside public?

10 A. So in our messaging and  
11 sales tools, we do include a little bit  
12 around the mechanism of action for  
13 Nucynta ER. There's very limited -- in  
14 terms of what we're able to say. I don't  
15 recall the specifics, but it might be in  
16 this document in terms of what we were  
17 able to say about it.

18 Q. Okay. That's what I want to  
19 focus on, the dual mechanism of action  
20 topic for a moment.

21 A. Okay.

22 Q. And isn't it true that  
23 Nucynta and Nucynta ER's exact mechanism  
24 of action is scientifically unknown?

1           A.     I believe that that's what  
2     we say.

3           Q.     So you believe that that's  
4     true, right?

5           A.     Yeah, I believe that  
6     that's -- I believe that that's what we  
7     were able to say to the doctors. To the  
8     extent that people within Janssen, like  
9     the science folks in Janssen -- at  
10    Janssen, have a deeper understanding of  
11    it, that's something that I can't testify  
12    to.

13          Q.     In fact, the only evidence  
14    regarding the mechanism of action was  
15    derived from limited preclinical animal  
16    research; isn't that right?

17                MS. STRONG: Objection to  
18                form.

19                THE WITNESS: So mechanisms  
20                of actions are very complicated  
21                scientific things that I don't  
22                really -- I don't feel comfortable  
23                speaking to. I think someone else  
24                can better answer these things.

1 All I know is there's --  
2 from a marketing perspective, I  
3 know that there's limited things  
4 that we can say, and that's what  
5 we say in our marketing material,  
6 and that's what we train the sales  
7 representatives to say.

8 BY MR. JANUSH:

9 Q. What's the "that's what we  
10 say"? I'm not -- I'm not following you.  
11 What is it that you say in your marketing  
12 materials and train your sales  
13 representatives to follow?

14 MS. STRONG: Objection to  
15 form.

16 THE WITNESS: So -- so  
17 that's what I'm saying. I -- I  
18 don't recall, like sitting here.  
19 But I think there's probably  
20 documentation that shows what --  
21 what it is that we're able to say.

22 I want to be careful to -- I  
23 can't recall it. But I remember  
24 it's brief in terms of what we

1           were able to say.

2       BY MR. JANUSH:

3           Q.     Do you know as you sit here  
4       today whether the Janssen -- whether  
5       Janssen marketed Nucynta ER as having a  
6       dual mechanism of action?

7                     MS. STRONG:  Objection to  
8       form.

9                     THE WITNESS:  I believe  
10       we -- I believe we were able to  
11       say that we have a dual mechanism  
12       of action, but I would -- I would  
13       like to check it because it's been  
14       a long time.

15       BY MR. JANUSH:

16           Q.     And that dual mechanism of  
17       action was important, was it not, because  
18       it permitted Janssen to portray Nucynta  
19       and Nucynta ER as milder opioids that  
20       were less addictive than other available  
21       Schedule II opioids such as OxyContin;  
22       isn't that true?

23                     MS. STRONG:  Objection to  
24       form.

1 THE WITNESS: No.

2 BY MR. JANUSH:

3 Q. You disagree with that?

4 A. Yes.

5 Q. Okay. In fact, there came a  
6 point in time where you personally left  
7 out of communications when citing to the  
8 dual mechanism of action, left out the  
9 caveat that the exact mechanism of action  
10 is unknown and someone at Janssen called  
11 you out on it. Isn't that right?

12 MS. STRONG: Objection to  
13 form.

14 THE WITNESS: No. I don't  
15 recall -- I don't know what you're  
16 talking about.

17 BY MR. JANUSH:

18 Q. Okay.

19 (Document marked for  
20 identification as Exhibit  
21 Janssen-Burns-10.)

22 BY MR. JANUSH:

23 Q. I'm pulling up  
24 JAN-MS-00753700. It's Exhibit 10.

1 MS. STRONG: The last one  
2 was 9?

3 MR. JANUSH: I think so.  
4 Yes. So we are at 10.

5 BY MR. JANUSH:

6 Q. And who is Phung Quach? I  
7 might be mispronouncing the name, so  
8 forgive me entirely.

9 A. It's okay. Phung Quach, she  
10 was medical communications.

11 Q. Okay. And is that a role  
12 that -- that seeks to ensure that folks,  
13 employees at Janssen, are always using  
14 correct language when referring to what  
15 you can and cannot say about a product's  
16 qualities?

17 A. I -- I wouldn't say that  
18 that was her role. I wouldn't describe  
19 it in that way. Medical communications,  
20 I guess in my own words, they -- they  
21 check things like references, that we  
22 have proper references, that they, you  
23 know, comply with, I don't know, AMA  
24 standards and things like that. That we

1 can source correctly and accurately.

2 So if we're sourcing to  
3 certain publications or we're certain --  
4 sourcing to certain data, that we're  
5 accurate in how we're sourcing our  
6 information. I recall that that's the  
7 majority of what they do. It's sort of  
8 the nitty-gritty of the medical check.  
9 That's their role.

10 Q. It's a compliance role in a  
11 sense as well, right?

12 A. The title is not compliance.

13 Q. Right.

14 A. And what they do is not like  
15 a compliance officer. They are more  
16 medical. They are more medical  
17 correctness.

18 Q. Okay. Thank you for that  
19 clarification.

20 A. Mm-hmm.

21 Q. And it looks like Phung  
22 Quach is writing to you directly on  
23 February 27, 2013, and addressing an  
24 omission of a line in the iPad Nucynta ER



1 summary page and leave-behind visual aid.

2 Do you see that?

3 A. I see it.

4 Q. And that, more specifically,

5 addressing under the header dual

6 mechanism of action, the following

7 sentence should be added as the first

8 sentence below the header, quote, the

9 exact mechanism of action is unknown,

10 quote.

11 Do you see that?

12 A. I see.

13 Q. So Phung is -- is asking you

14 to make that change now in the iPad and

15 separately for the leave-behind piece,

16 when it times to review or reprint the

17 piece, whichever comes first, you were

18 being asked to also add in that sentence;

19 is that right?

20 A. I see that.

21 Q. Okay. So a leave-behind

22 piece by definition is something that

23 makes it to the physician's office and is

24 left behind; is that right?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: Yes, in  
4 general that's what it means.

5 BY MR. JANUSH:

6 Q. Okay. So dual mechanism of  
7 action was printed in a leave-behind  
8 piece that made it into the physician's  
9 office, right?

10 A. Right.

11 MS. STRONG: Objection to  
12 form.

13 BY MR. JANUSH:

14 Q. Okay. And probably because  
15 it's hard to go into physician's offices  
16 and find leave-behind pieces and repull  
17 them, Phung was saying, when it's time to  
18 re-review or reprint the piece, whichever  
19 comes first, can you please add in that  
20 sentence?

21 A. I'm sorry, what was the  
22 first part?

23 Q. I said probably because it's  
24 very hard to go into the physician's

1 office and pull back the piece that was  
2 left behind, Phung is saying, when it's  
3 time to re-review or reprint the piece,  
4 whichever comes first, can you please add  
5 in this sentence, that the exact  
6 mechanism of action is unknown; is that  
7 right?

8 A. I don't know if that's what  
9 she was thinking at the time that the  
10 reason to wait is because it's hard to  
11 pull.

12 Q. But either way, you were  
13 being directed that at re-review or  
14 reprint --

15 A. Right.

16 Q. -- we need to add the  
17 sentence, "The exact mechanism of action  
18 is unknown" --

19 A. Correct.

20 Q. -- on a document that made  
21 it into the physician's office?

22 MS. STRONG: Objection to  
23 form.

24 THE WITNESS: On a

1           leave-behind piece.

2       BY MR. JANUSH:

3           Q.     Which is a document that  
4       goes to the physician's office, right?

5           A.     Yes, it's meant for a  
6       physician's office.

7           Q.     Okay.

8                   MR. JANUSH:  Let's go off  
9       the record for a short break,  
10     please.

11                   THE VIDEOGRAPHER:  We are  
12     now going off the record and the  
13     time is 2:45 p.m.

14                   (Short break.)

15                   THE VIDEOGRAPHER:  We are  
16     now going back on the record.  The  
17     time is 3:12 p.m.

18                   (Document marked for  
19     identification as Exhibit  
20     Janssen-Burns-11.)

21       BY MR. JANUSH:

22           Q.     Ms. Burns, I'm going to hand  
23     you what I've marked as Exhibit 11.  It's  
24     JAN-MS-00771526.

1 MS. STRONG: Mr. Janush,  
2 just before you begin.

3 MR. JANUSH: Sorry. I  
4 apologize.

5 MS. STRONG: Yeah, no, it's  
6 okay. Just before you get on -- I  
7 don't want to forget. We noticed  
8 that Exhibit 8 that was shown to  
9 the witness at the deposition  
10 doesn't reflect any track changes.  
11 But we believe that when looking  
12 at the document on relativity that  
13 it does have track changes in it.

14 So I just wanted to note  
15 that, and Mr. Janush said he would  
16 look into that. It may have been  
17 just something that happened with  
18 the printing or an image or a  
19 native form that was printed. So  
20 I'm just noting it for the record.

21 MR. JANUSH: Sure. Yeah,  
22 some of these documents have been  
23 produced by Janssen in two  
24 different formats. And we have --

1           we may have only printed a format  
2           that didn't have the changes. So  
3           we'll look at it as well.

4       BY MR. JANUSH:

5           Q.     This is a PowerPoint,  
6       Ms. Burns, that -- that appears to be  
7       dated July 2011. It's titled Burden of  
8       Pain.

9                     And I wanted to come back to  
10      a topic we hit upon earlier regarding  
11      unsatisfactory pain control. Do you  
12      remember when we talked about that?

13           A.     Yes.

14           Q.     Okay. So I'm going to draw  
15      your attention to Page 9 or Slide 9.

16           A.     Okay. And also I just want  
17      to make a comment that July 2011 was  
18      before I joined the Nucynta team. And  
19      I've never seen this documentation  
20      before.

21           Q.     Okay. We knew that it was  
22      before you joined the team.

23           A.     Okay.

24           Q.     However, it was produced as

1 part of your custodial file and reflected  
2 that -- I think that reflected that at  
3 one point in time you'd been sent this  
4 document. So I'm just representing --

5 A. Okay. Okay.

6 Q. -- in front of your counsel  
7 and for your benefit that I didn't pull  
8 it from someone else's custodial file.  
9 It absolutely came from your custodial  
10 file production.

11 A. Okay. I've just never seen  
12 it. But that's okay.

13 Q. Well, I'll be quick then.

14 A. Sure.

15 Q. Earlier I was seeking to  
16 address the concept of whether Janssen  
17 studied the notion of unmet pain. Do you  
18 remember that?

19 A. Unmet need in pain.

20 Q. Unmet need in pain, yeah.

21 Okay.

22 And this document seems to  
23 be addressing that topic. At the top in  
24 the blue banner, it's stating, "Severe

1 and very severe chronic pain patients  
2 report unsatisfactory pain control."

3 Would you consider  
4 unsatisfactory pain control to be unmet  
5 pain management?

6 A. Yes, in general. Mm-hmm.

7 Q. And this is in 2011. And  
8 the citation, the reference for this  
9 concept of patients reporting  
10 unsatisfactory pain control concerns a  
11 1998 telephone interview study conducted  
12 by the American Pain Society which sought  
13 to measure patient perceptions of their  
14 current pain treatments.

15 Are you familiar with that  
16 1998 American Pain Society telephone  
17 study that's cited here?

18 A. No, not at all.

19 Q. Okay. Are you -- are you  
20 aware that the -- that the study that's  
21 cited by Janssen in this July 2011  
22 PowerPoint, citing to -- cites -- it's --  
23 let me take a step back and re-ask that  
24 question.



1                   Are you aware that this  
2     study was funded and in part -- and  
3     conducted in part -- well, funded in part  
4     by Janssen Pharmaceutica, are you aware  
5     of that?

6                   MS. STRONG: Objection to  
7                   form.

8                   THE WITNESS: No, I'm not.

9     BY MR. JANUSH:

10                  Q.     Are you aware that it was  
11     conducted by Roper Starch Worldwide for  
12     the American Academy of Pain Medicine,  
13     the American Pain Society, and Janssen  
14     Pharmaceutica in 1999?

15                  MS. STRONG: Objection to  
16                  form.

17                  THE WITNESS: I'm not  
18                  familiar with any of this.

19     BY MR. JANUSH:

20                  Q.     Do you know that the --  
21     whether the American Academy of Pain  
22     Medicine is a pain advocacy group that  
23     was sponsored by companies that  
24     manufactured opioid products, including

1 Janssen?

2 MS. STRONG: Objection to  
3 form.

4 THE WITNESS: There's two  
5 parts to that question. I am  
6 aware of American Pain Society, as  
7 a society, you know, having to do  
8 with pain. I'm unaware of the  
9 second part.

10 BY MR. JANUSH:

11 Q. You're unaware of American  
12 Academy of Pain Medicine?

13 A. No, the sponsorship --

14 Q. There are two societies  
15 listed here.

16 A. The sponsorship part.

17 Q. Okay. So let's break it  
18 down. There's two different societies  
19 that are listed, American Academy of Pain  
20 Medicine and the American Pain Society.

21 So you stated that you were aware of the  
22 American Pain Society. Is it correct to  
23 say that you're unaware as to whether the  
24 American Pain Society was sponsored in

1 part by Janssen?

2 A. Yeah, I'm unaware that the  
3 American Pain Society was sponsored by  
4 Janssen.

5 Q. Okay. Are you similarly  
6 unaware that the American Academy of Pain  
7 Medicine was sponsored in part by  
8 Janssen?

9 MS. STRONG: Objection to  
10 form.

11 THE WITNESS: Correct. I am  
12 unaware of that.

13 BY MR. JANUSH:

14 Q. And before today, you had  
15 never seen this study, never read this  
16 study regarding the 805 telephone  
17 interviews that were conducted in 1998 by  
18 the American Pain Society?

19 A. Correct.

20 Q. Okay. Before we put it  
21 entirely away. I'm going to ask you to  
22 turn to Page 28. I'm going to transition  
23 to a different topic concerning abuse  
24 potential of opioid products.

1                   Now, are you aware of  
2     Janssen engaging in marketing efforts to  
3     address that the incidence of opioid  
4     abuse and addiction after chronic opioid  
5     therapy is less than addiction in the  
6     general population?

7                   MS. STRONG: Objection to  
8     form.

9                   THE WITNESS: I've never  
10    seen this slide or this entire  
11    deck. And I'm not aware of that  
12    at all.

13   BY MR. JANUSH:

14               Q.     To break that down, I  
15    just -- I did get your answer, I think.  
16    But I want to break that down into two  
17    pieces. First, you've never seen this  
18    slide deck. And separately, you're  
19    unaware of Janssen taking the position  
20    that the prevalence of -- the incidence  
21    of opioid abuse and addiction after  
22    chronic opioid therapy is less than the  
23    prevalence of addiction in the general  
24    population?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: I'm not aware  
4 of that at all.

5 BY MR. JANUSH:

6 Q. Okay. Are you familiar with  
7 the article referenced at Footnote 1  
8 below written by Fishbain and Cole and  
9 Lewis titled "What Percentage of Chronic  
10 Nonmalignant Pain Patients Exposed to  
11 Chronic Opioid Analgesic Therapy Develop  
12 Abuse/Addiction and/or Aberrant  
13 Drug-Related Behaviors? A Structured  
14 Evidence-Based Review"?

15 A. No, I've never seen it or --  
16 aware of it before.

17 Q. Okay. I'm going hand you  
18 what's been marked as Exhibit 12.

19 (Document marked for  
20 identification as Exhibit  
21 Janssen-Burns-12.)

22 BY MR. JANUSH:

23 Q. Its Bates number is  
24 JAN-MS-01057540, and it looks like this

1 is a risk management or REMS for  
2 tapentadol ER for internal training  
3 purposes only. Have you ever seen this  
4 before? Let me -- before I ask you that  
5 question, let me also, as I have been  
6 trying to do, advise that the primary  
7 custodian for this document is Ron Kuntz.  
8 The custodian all category includes you  
9 as a recipient of this document.

10 A. So I'm aware that tapentadol  
11 ER has a REMS. But as I'm flipping  
12 through this, it's -- you know, it's not  
13 fresh in my mind.

14 Q. Okay. And earlier I asked  
15 you whether you would agree with the  
16 concept that as the number of  
17 prescriptions for opioid drugs increases,  
18 so does the frequency of misuse, abuse,  
19 and diversion. Do you remember that?

20 MS. STRONG: Objection to  
21 form.

22 THE WITNESS: Actually,  
23 that's not exactly how you  
24 answered it. I mean, that's not

1 exactly how you asked it. I think  
2 the only part that you asked me  
3 about was addiction. Not misuse,  
4 abuse and diversion.

5 BY MR. JANUSH:

6 Q. We're going to pause and I'm  
7 going to have the court reporter search  
8 that back for me and seek out the words,  
9 "misuse," "abuse" and "diversion."

10 (Whereupon, a discussion was  
11 held off the stenographic record.)

12 MR. JANUSH: Back on the  
13 record.

14 BY MR. JANUSH:

15 Q. Do you believe in the  
16 concept that as prescriptions of opioid  
17 products increases, so too does the risk  
18 for abuse?

19 MS. STRONG: Objection to  
20 form.

21 THE WITNESS: Sorry, I'm  
22 just trying to process the  
23 question.

24 So you're asking do I

1           believe in the concept that if the  
2           number of prescriptions increase,  
3           the risk of abuse increase? Not  
4           necessarily, no. Because I think  
5           there's a lot of factors that go  
6           into abuse.

7   BY MR. JANUSH:

8           Q.     So I'm going to turn your  
9           attention to Page 11 and ask that you  
10          read along with me. And I'll put it up  
11          here, so you see where I am. I'm close  
12          to the bottom of the page. And I'm  
13          reading this. That "the regulatory  
14          controls and restrictions imposed by  
15          Schedule II designations serve as an  
16          important means of preventing the abuse,  
17          and diversion of opioid drugs. Despite  
18          the regulatory controls that are in place  
19          to prevent the misuse, abuse and  
20          diversion of Schedule II drugs, data show  
21          that as the number of prescriptions of  
22          opioid drugs increases, so does the  
23          frequency of misuse, abuse, overdose and  
24          drug-related fatalities."



1 Do you see that?

2 A. I do.

3 Q. Can you appreciate that this  
4 is a position that your former employer  
5 Janssen took in its REMS on tapentadol  
6 ER?

7 MS. STRONG: Objection to  
8 form.

9 THE WITNESS: So I'm not  
10 sure -- I'm not sure how much of  
11 what we read or, you know, this  
12 document, is Janssen's position  
13 versus statements or beliefs that  
14 were adopted from the CDC or the  
15 FDA or the DEA, for example.

16 BY MR. JANUSH:

17 Q. You're not -- are you taking  
18 the position that -- that a risk  
19 management document created for  
20 tapentadol ER for which Janssen was then  
21 the -- was the only manufacturer, was --  
22 was nothing more than like having your --  
23 its arm bent by the CDC and not really  
24 embracing this language?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: I'm not sure  
4 what you're asking me.

5 BY MR. JANUSH:

6 Q. Well, let me ask you this.  
7 Turn to page -- page -- let me ask you a  
8 different question.

9 You know what a REMS is,  
10 right?

11 A. Mm-hmm.

12 Q. And the -- the goal of a  
13 REMS is to ensure that the -- the  
14 benefits of a drug outweigh its risks;  
15 isn't that right?

16 MS. STRONG: Objection to  
17 form.

18 THE WITNESS: I'm not sure  
19 if that's the goal of REMS. I  
20 think to ensure that the benefit  
21 of a drug outweighs the risks,  
22 that's -- that's an evaluation  
23 that the FDA makes in approving  
24 the drug in the first place. So

1           by the FDA approving the drug, the  
2           benefits already outweigh the  
3           risks.

4   BY MR. JANUSH:

5           Q.     Okay.

6           A.     So --

7           Q.     So take a look at Page 3.

8   I'm going to highlight it. And Janssen  
9   writes, "The goal of a REMS ensuring the  
10   benefits of a drug outweigh its risks is  
11   in keeping with the Johnson & Johnson  
12   credo which begins, quote, we believe our  
13   first responsibility is to the doctors,  
14   nurses and patients, to mothers and  
15   fathers, and all others who use our  
16   products and services."

17                   Do you see that?

18           A.     Mm-hmm.

19           Q.     So Johnson & Johnson and  
20   Janssen seems to be saying that the goal  
21   of a REMS ensuring the benefits of a drug  
22   outweigh its risks is in keeping with the  
23   Johnson & Johnson credo.

24                   Would you agree with that?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: I mean I'm --  
4 I'm not disputing this statement.

5 BY MR. JANUSH:

6 Q. Okay. And it's saying  
7 that -- that -- isn't this also saying  
8 that the goal of a REMS is to ensure that  
9 the benefits of a drug outweigh its  
10 risks?

11 MS. STRONG: And objection  
12 to form.

13 THE WITNESS: So if you  
14 looked at the first paragraph  
15 under overview, it kind of says  
16 what you say. But I think there's  
17 this nuance saying that the  
18 benefits of the drug outweigh the  
19 risks associated with its use, and  
20 I think that's more representative  
21 of what a REMS is for.

22 Whereas, what I said  
23 earlier, I think the FDA approves  
24 drugs where they have determined

1           that the benefit outweighs the  
2           risk for the drug to be approved  
3           and the REMS is there to ensure  
4           that the use, there's certain  
5           precautions and certain steps that  
6           are taken, to make sure that it's  
7           used safely.

8       BY MR. JANUSH:

9           Q.       So you're -- you're stuck on  
10          the drug wouldn't be approved if it  
11          wasn't safe by the FDA. And REMS is  
12          different, isn't it? Isn't REMS  
13          addressing after a drug has been approved  
14          in a -- in a postmarket, in a  
15          postapproval scenario, what is the  
16          drugmaker seeing concerning the risks  
17          associated with its drugs and what  
18          actions should the drug -- should the  
19          drugmaker take to address those risks.  
20          That's what REMS is addressing, isn't it?

21                   MS. STRONG: Objection to  
22          form.

23                   THE WITNESS: Okay. So I  
24          think this is probably a good time

1           for me to say I don't understand  
2           the nuance of REMS. I know that  
3           REMS are risk mitigation programs,  
4           that are required, mandated by the  
5           FDA.

6                     Now the details of REMS,  
7           what's in it, I -- I don't -- I  
8           can't speak to the details of it.

9                     I know there is risk  
10          mitigation -- it is risk  
11          evaluation and mitigation plan.  
12          It has, you know, quite a lot in  
13          here. But, you know, I don't know  
14          all the different components of  
15          it.

16   BY MR. JANUSH:

17                 Q.     Okay. Earlier we talked a  
18          bit about the dual mechanism of action  
19          promotional language by Janssen. I'd  
20          like you to turn to the bottom of Page 7.

21                     It says, "Tapentadol, the  
22          active ingredient in tapentadol ER has a  
23          dual mechanism of action. It is believed  
24          to act as both a mu opioid receptor

1 agonist and as a noradrenaline reuptake  
2 inhibitor which potentiates the effects  
3 of opioids?"

4 Do you see that?

5 A. Yes, I see it.

6 MS. STRONG: And again, I'm  
7 just going to object to the  
8 precursor to the questions.

9 BY MR. JANUSH:

10 Q. Okay. Again, as with the  
11 physician leave-behind that Phung Quach  
12 corrected you on, in this Janssen  
13 document on REMS for internal training  
14 purposes of its employees, there's no  
15 caveat saying, hey, this really isn't  
16 true. We only did this preclinical  
17 research that the FDA says we can't rely  
18 on. Isn't that right?

19 MS. STRONG: Objection to  
20 form.

21 THE WITNESS: I -- I object  
22 to the characterization that hey,  
23 it's not true. At no place do we  
24 say that it's not true.

1 BY MR. JANUSH:

2 Q. That's my point. I think  
3 you're proving my point.

4 A. No, I don't think so.

5 Q. My point -- I think you  
6 might not understand that you're proving  
7 my point, but you're proving my point.

8 You're staunchly taking the  
9 position that there is a dual mechanism  
10 of action, and even to this date, there  
11 is no science that has been performed  
12 proving a dual mechanism of action and  
13 the FDA has taken the position that  
14 preclinical animal studies cannot be  
15 cited to demonstrate a dual mechanism of  
16 action. Are you aware of that?

17 MS. STRONG: Okay.

18 Objection to form.

19 THE WITNESS: So first, I --  
20 I don't know what -- I don't know  
21 what you mean by staunchly taking  
22 the position. I'm not taking any  
23 position. I'm only explaining  
24 that the dual -- the dual



1 mechanism of action of tapentadol  
2 is something that we communicated  
3 and tried to educate, you know,  
4 share as much as is available in  
5 the package insert. And that's  
6 it. We're not trying to say any  
7 more than that.

8 And we were very careful, we  
9 meaning, you know, the review --  
10 the review committee has legal,  
11 regulatory compliance, medical,  
12 review the statements about what  
13 we can and cannot say. And that's  
14 what we -- you know, that's what  
15 we ended up using.

16 I think there's also an  
17 issue of timing. I don't know the  
18 timing of this document, but the  
19 language on what we felt  
20 comfortable to say or not say, I  
21 believe changed over time as well.  
22 And some of the new language that  
23 was added may not be in, you  
24 know -- may not have been

1           retroactively applied to  
2           everything that's out there. So,  
3           you know.

4       BY MR. JANUSH:

5           Q.     Are you saying that there's  
6           the possibility that at some point in  
7           time Janssen was able to say without any  
8           caveat that tapentadol ER has a dual  
9           mechanism of action?

10          A.     No, I did not say that.

11          Q.     What are you saying? I'm  
12          trying to really understand your -- your  
13          testimony on this issue.

14          A.     What I'm saying is the dual  
15          mechanism of action is a very complex  
16          topic in which Janssen was very careful  
17          about how they phrase the language, and  
18          what was able to be said publicly outside  
19          of the organization. We stayed very  
20          close to what is in the package insert.

21          Q.     Not always though, right?

22                   MS. STRONG: Objection to  
23          form.

24                   THE WITNESS: Not always to

1           what?

2       BY MR. JANUSH:

3           Q.       Well, you got corrected by  
4       Phung Quach on the physician leave-behind  
5       that left the organization, was  
6       disseminated in the public and didn't  
7       include the language that -- concerning  
8       the lack of a proven link between --  
9       concerning the dual mechanism of action?

10          A.       No, that's not --

11                 MS. STRONG:  Objection to --  
12       objection to form.

13                 THE WITNESS:  No, that's not  
14       true.  The function of medical  
15       communications is to ensure  
16       accuracy, and it is their job to  
17       pick out things that may have been  
18       omitted inadvertently before, you  
19       know, everything is finalized.

20                 That was pointed out that  
21       what we had submitted for review  
22       did not have that in the iPad or  
23       whatever.  And she said to put it.  
24       And the final product that was

1           finally approved likely had it  
2           because that is the process that  
3           Janssen has to ensure accuracy of  
4           things. So it was caught during  
5           the process before it was  
6           finalized, before the iPad was  
7           finalized.

8       BY MR. JANUSH:

9           Q.       Well, you're addressing only  
10          the iPad asset. But there were also  
11          physician leave-behinds that were  
12          addressing the need to reprint in the  
13          future when reprints are required. You  
14          recall that, right?

15                 MS. STRONG: Objection to  
16          form.

17                 THE WITNESS: So with regard  
18          to the leave-behind, which I don't  
19          remember the specifics, my best  
20          recollection would be that that  
21          statement was something that was  
22          agreed upon by the approvers in  
23          the organization to be added to --  
24          you know, it was an addition that

1           we added on future things going  
2           forward. And whenever  
3           appropriate, we would go back and  
4           add to other things too.

5       BY MR. JANUSH:

6           Q.     And that language, that  
7           qualifying language concerning the lack  
8           of a clinical correlation, is absent at  
9           Page 7 of this document --

10          A.     And I don't believe that's a  
11          correct characterization.

12                 MS. STRONG: Let me object.  
13           Objection to form. Go ahead and  
14           give your answer. Please wait for  
15           me to object.

16                 THE WITNESS: Sorry.

17                 MS. STRONG: That's okay.

18                 THE WITNESS: So I just  
19           don't want to rephrase that  
20           statement. I believe we should  
21           just stick to that statement.  
22           Because you're -- you're  
23           characterizing it as something  
24           different, and words matter when

1           it comes to that particular  
2           statement.

3       BY MR. JANUSH:

4           Q.     So the statement that I'm  
5       referring to is, "The exact mechanism of  
6       action is unknown."

7           A.     Correct. It says the  
8       exact --

9           Q.     Do you know -- do you  
10      know --

11          A.     -- mechanism of action is  
12      unknown.

13          Q.     Do you know why the exact  
14      mechanism of action is unknown?

15          A.     I do not know.

16          Q.     Do you know that the reason  
17      the exact dual mechanism of action or  
18      mechanism of action is unknown is because  
19      no study post-preclinical studies,  
20      following preclinical studies, ever  
21      proved in human models a mechanism of  
22      action?

23                   MS. STRONG: Objection to  
24                   form.

1 BY MR. JANUSH:

2 Q. Did you know that?

3 A. I don't know that that's the  
4 reason for why an exact mechanism of  
5 action is unknown. And I'm not sure that  
6 that's how you actually find out how it  
7 works, because I'm not a medical person.

8 Q. Okay. Fair enough. As  
9 someone who oversaw the Nucynta brand  
10 team for marketing -- excuse me -- for a  
11 portion of the marketing team between  
12 2011 and 2013, do you have an opinion as  
13 to whether the increase in the drug  
14 overdose fatalities observed throughout  
15 1990 to 2007 in the United States has  
16 been largely attributable to the misuse  
17 and abuse of prescription opioid drugs?

18 MS. STRONG: Objection to  
19 form.

20 THE WITNESS: I'm sorry. I  
21 just -- I just want to clarify.  
22 The beginning statement that you  
23 said is not correct, exactly. I  
24 did not oversee the team. I was

1           just a product director on the  
2           team. I had no direct reports.

3       BY MR. JANUSH:

4           Q.     Stated differently, to  
5       correct the first part of my question, I  
6       will replace the first part from leading  
7       a team to the following language.

8           A.     Okay.

9           Q.     As someone who credits  
10      herself as, "Turned around the Nucynta  
11      molecule business, revitalized all  
12      elements of marketing, including  
13      delivering more relevant market insights,  
14      optimizing customer target and sales  
15      incentive compensation, and launching a  
16      new standalone specialty sales team of 77  
17      representatives and seven sales  
18      managers," do you have an opinion as to  
19      whether the increase in the drug overdose  
20      fatalities observed throughout 1990 to  
21      2007 in the United States has been  
22      largely attributable to the misuse, and  
23      abuse of prescription opioid drugs?

24                   MS. STRONG: Objection to



1 form.

2 THE WITNESS: You're asking  
3 me about an opinion leading up to  
4 2007. That's before I even worked  
5 in the pain space.

6 So prior to the end of 2011,  
7 I was not focused on pain space,  
8 and I didn't have particular  
9 interest in the pain space. So  
10 no, I did not have an opinion.

11 BY MR. JANUSH:

12 Q. So to be clear, the reason I  
13 asked you it, is because in this document  
14 that was found in your custodial file at  
15 Page 12.

16 MS. STRONG: What document?

17 MR. JANUSH: This Janssen  
18 document. This exhibit -- what  
19 are we up to? It's the one in  
20 front of you.

21 THE WITNESS: 12.

22 BY MR. JANUSH:

23 Q. 12. At Exhibit 12 at Page  
24 12, in the middle of the page, in 2011

1 Janssen is looking back and addressing  
2 rates of unintentional drug overdose  
3 deaths in the United States between 1990  
4 and 2007.

5 Do you see that?

6 MS. STRONG: The question  
7 is, do you see that?

8 BY MR. JANUSH:

9 Q. Do you see that?

10 A. I see what you circled, yes.

11 Q. Okay. And how about this,  
12 what I'm circling here?

13 A. Yeah, I see that.

14 Q. Okay. So you understand the  
15 concept that you could -- may not have  
16 been employed in 2007 in the pain space,  
17 but that in 2011 at a time when you were  
18 employed in the pain space, Janssen was  
19 apparently taking a look back at  
20 opioid-related deaths from 1990 to 2007.

21 Do you see that?

22 MS. STRONG: I want to say  
23 objection to form.

24 THE WITNESS: You made a

1 statement, and then you asked me  
2 if I see it. Which one? Do you  
3 want me to answer if I agree with  
4 the statement or do I --

5 BY MR. JANUSH:

6 Q. I don't need you to agree  
7 with it.

8 A. -- am I looking at it?

9 Okay.

10 Q. I'm asking you this concept.  
11 You earlier stated --

12 A. Right.

13 Q. -- that you can't take a  
14 position to something that occurred  
15 before you joined the pain space. And  
16 I'm making the point that Janssen in 2011  
17 was looking back at data from 1990 to  
18 2007. Do you appreciate that?

19 A. I don't know what you mean  
20 by do I appreciate it. I mean, you're  
21 telling me they looked at it. And I'm  
22 not disputing that they looked at it.

23 Q. Okay. So you agree --

24 A. So yeah.

1           Q.     You agree that Janssen -- my  
2     point is this. The fact that you were  
3     not employed in 2007 in the pain space is  
4     wholly irrelevant to whether you could  
5     have learned information like this data  
6     right here that Janssen published in  
7     2011; isn't that true?

8                     MS. STRONG: Objection to  
9     form.

10                    THE WITNESS: So this is  
11     linked to the question you asked  
12     me. Specifically you asked me,  
13     did I have an opinion about  
14     whatever the trend was leading up  
15     to -- you asked me if I had a  
16     personal opinion. And I said no,  
17     I did not.

18                    MR. JANUSH: Move to strike.  
19     Nonresponsive.

20                    THE WITNESS: Back in 2007.

21                    MR. JANUSH: It's not  
22     responsive to my question.

23                    MS. STRONG: It's absolutely  
24     responsive. You don't need to

1 harass the witness.

2 MR. JANUSH: I'm not  
3 harassing her. I'm moving to  
4 strike as nonresponsive.

5 BY MR. JANUSH:

6 Q. My question that was on the  
7 record at that moment was not what you're  
8 answering. My question concerned, you  
9 could be employed in 2011 and see  
10 information that concerns an earlier time  
11 period and form an understanding about  
12 Janssen's position concerning that  
13 earlier time period. True or false?

14 MS. STRONG: Objection to  
15 form.

16 THE WITNESS: I'm not trying  
17 to be difficult. I don't  
18 understand your question.

19 BY MR. JANUSH:

20 Q. Okay. So when you got this  
21 document at some point in your files and  
22 your computer, did you -- you just never  
23 read it?

24 A. I don't -- as I'm looking at

1 it now, it doesn't look familiar to me.

2 Q. REMS is a pretty important  
3 topic, isn't it?

4 A. Yeah. Right. What I mean  
5 by that is I may have read it, but I  
6 can't tell you what's in this document,  
7 and we're just flipping pages and you're  
8 pointing me to a particular spot and  
9 asking me a question. I'm not super  
10 familiar. It's not like -- it doesn't  
11 feel familiar to me. That's all I'm  
12 saying.

13 And I'm not saying that I  
14 never read it or that I read it. But I'm  
15 also not understanding what you're  
16 asking.

17 You're making a statement  
18 that Janssen -- that the study, can I  
19 appreciate that.

20 Q. That's not exactly what I'm  
21 saying.

22 A. I don't know what to say.  
23 Do I appreciate that?

24 Q. Let me highlight language

1 for you. I'm saying this. Janssen made  
2 a statement in its REMS on Nucynta ER  
3 that, "This increase in the drug overdose  
4 fatalities has been largely attributable  
5 to the misuse and abuse of prescription  
6 opioid drugs."

7 You see that, right?

8 A. I see the statement.

9 Q. Do you -- do you have an  
10 opinion as to whether that's correct or  
11 not? Do you disagree with your former  
12 employer on that topic?

13 MS. STRONG: Objection to  
14 form.

15 THE WITNESS: I can't agree  
16 or disagree. I mean, I mean, they  
17 had a reason to make that  
18 statement. I'm sure it's based on  
19 data. So I'm not sure if I'm in a  
20 position to agree or disagree with  
21 something that's source.

22 BY MR. JANUSH:

23 Q. Okay.

24 A. So...

1 Q. Did you ever -- do you ever  
2 recall reading a REMS for Nucynta ER?

3 A. I recall having -- you know,  
4 having access and, you know, gone through  
5 it, but it has been a long time.

6 Q. I'm just going to need one  
7 minute to find something I'm looking for  
8 within this document.

9 I'm going to turn your  
10 attention to Page 15. Are you familiar  
11 with the concept of being physically  
12 dependent on opioids?

13 A. Yes.

14 Q. Okay. What's your  
15 understanding concerning physical  
16 dependence?

17 A. Well, I'm not a -- you know,  
18 I'm not a clinician or doctor of any  
19 kind, but opioids, if taken over an  
20 extended period of time, the body can  
21 have physical sort of dependence on the  
22 opioids, and, therefore, you know, it  
23 would want to continue to be on opioids.

24 Q. Okay. And does the



1 statement at the bottom here of that  
2 paragraph that says, "However, once  
3 opioid treatment is no longer needed,  
4 patients are able to discontinue opioid  
5 use without difficulty provided the  
6 dosage is tapered gradually."

7 Do you see that?

8 A. I do.

9 Q. Do you have familiarity with  
10 this concept?

11 A. Yes.

12 Q. What -- can you explain your  
13 familiarity with this concept?

14 A. In general, it's good  
15 medical practice to taper patients off of  
16 opioids, from whatever the dose that they  
17 are on, gradually reduce a dose until  
18 they can completely go off opioids. And  
19 that's how it should be discontinued.

20 Q. Okay. This states that  
21 patients are able to discontinue opioid  
22 use, quote, without difficulty, quote,  
23 provided the dosage is tapered gradually.

24 A. You're on the same sentence,

1 right?

2 Q. Yeah. Do you know the --  
3 what the support is for the concept that  
4 patients should be -- would be able to  
5 discontinue opioid use without difficulty  
6 provided that the dosage is tapered  
7 gradually?

8 A. Hold on a second.

9 Is this -- is this section  
10 specifically about Nucynta ER or is this  
11 about opioids in general?

12 Q. Well, it's the REMS for  
13 Nucynta ER. But this -- there isn't a  
14 difference as per the FDA in the  
15 class-wide label concerning Nucynta ER as  
16 compared with other Schedule II  
17 products --

18 MS. STRONG: I would just  
19 object to anything along these  
20 lines to the extent that you're  
21 testifying about --

22 MR. JANUSH: So -- so -- I  
23 was just going to ask a question  
24 in the same --

1 BY MR. JANUSH:

2 Q. Are you aware of that fact?

3 MS. STRONG: Objection to  
4 form.

5 THE WITNESS: Which fact?

6 BY MR. JANUSH:

7 Q. Are you aware that there  
8 isn't -- that the FDA treated Nucynta ER  
9 the exact same as its competitors in  
10 the -- in the class when it came to label  
11 language concerning its -- the warning,  
12 the package insert warning?

13 MS. STRONG: Objection to  
14 form.

15 THE WITNESS: I am not aware  
16 of the specific warnings that  
17 other products have. But I would  
18 agree that there is sort of  
19 class-wide language that is also  
20 applicable to Nucynta ER.

21 BY MR. JANUSH:

22 Q. That's what I'm addressing.

23 A. Right.

24 Q. Class-wide language?

1           A.     Right. Yeah, but what I'm  
2     saying here is you're pointing me to a  
3     particular paragraph -- a particular  
4     sentence.

5           Q.     Mm-hmm.

6           A.     And it says, "However once  
7     opioid treatment," you know, and the rest  
8     of it. I'm just asking is that opioid  
9     treatment is a general statement about  
10    opioid treatment or is it specifically to  
11    Nucynta ER?

12          Q.     This is --

13          A.     Before I answer your  
14    question.

15          Q.     This is Janssen's --

16          A.     I understand.

17          Q.     -- risk assessment, risk  
18    management for tapentadol ER.

19          A.     Right. I understand what  
20    the document is --

21          Q.     That's all I got for you.

22          A.     Right. So I'm just going to  
23    look in here, just for context before I  
24    answer your question. Because sometimes

1 something like this talks about opioids  
2 in general and sometimes it talks about  
3 Nucynta ER in particular. So I just  
4 wanted to, you know, orient myself to  
5 this section.

6 Okay. So in reading a  
7 couple paragraphs ahead of this in this  
8 section, it seems that these two  
9 paragraphs on the top of Page 15,  
10 including the sentence that starts with  
11 however, that you pointed me to, this is  
12 talking about opioids in general.

13 Q. Go to the top of the page.  
14 It's talking about opioids and tapentadol  
15 ER, isn't it?

16 A. That's the chapter, yes.

17 Q. Yeah.

18 A. But you have to read things  
19 in context.

20 Q. You're -- are you taking the  
21 position that the Janssen REMS for  
22 tapentadol ER was -- was not including  
23 Nucynta ER when it was talking about the  
24 discontinuation of opioid use without

1 difficulty?

2 A. No, I did not say that.

3 Q. Okay.

4 A. No, I did not say that it's  
5 opioid excluding Nucynta ER.

6 Q. So I -- technically I'm  
7 actually not fussing the point of whether  
8 it's Janssen making the statement that  
9 all opioids can be tapered gradually  
10 and that discontinuance would occur  
11 without difficulty as compared with  
12 whether the statement was only made for  
13 Nucynta ER.

14 I'm making the point that  
15 it's made in the Nucynta ER REMS. Do you  
16 understand that?

17 MS. STRONG: Objection.

18 Objection to form. I'm not sure  
19 what the question is.

20 THE WITNESS: Okay. So, so  
21 this whole discussion about  
22 whether or not this is Nucynta ER  
23 specific or just opioid in general  
24 has to do with your last question

1 to me, which I think was along the  
2 lines of have I seen evidence or  
3 study to prove that patients are  
4 able to discontinue opioids  
5 without difficulty, right?

6 BY MR. JANUSH:

7 Q. Provided the dosage is  
8 tapered gradually, question mark.

9 A. Right. So I just wanted to  
10 clarify, are you asking me for -- if I  
11 have seen study or data for Nucynta ER  
12 specifically or just opioid in general?  
13 Because this seems to be talking about  
14 opioid in general. So I just wanted to  
15 clarify your question.

16 Q. Let's start with opioid in  
17 general.

18 A. Okay.

19 Q. Have you seen such studies?

20 MS. STRONG: Objection to  
21 form.

22 THE WITNESS: I -- I have  
23 not seen specific studies that I  
24 can point to that talk about

1           discontinuation without  
2           difficulty, you know, provided  
3           dosage is tapered gradually.

4                   I think that's --

5   BY MR. JANUSH:

6           Q.     So if you haven't seen it  
7           with respect to opioids generally, then  
8           you certainly haven't seen it with  
9           Nucynta ER specifically, right?

10                   MS. STRONG:  Objection to  
11           form.

12                   THE WITNESS:  I haven't seen  
13           anything specific to Nucynta ER.  
14           My understanding is that that is  
15           general good medical practice that  
16           doctors are supposed to do.  And  
17           it's also in the package insert  
18           from Nucynta ER, that if they  
19           wanted to discontinue, they have  
20           to taper gradually.  That's within  
21           the package insert for Nucynta ER.

22                           (Document marked for  
23           identification as Exhibit  
24           Janssen-Burns-13.)



1 BY MR. JANUSH:

2 Q. This is Exhibit 13. It  
3 includes a cover e-mail that attaches a  
4 slide deck. The cover e-mail is  
5 JAN-MS-02385922. Again, it's Exhibit 13.

6 The attachment is  
7 JAN-MS-02385924. It is listed on the  
8 document platform as being part of the  
9 family and the attachment PowerPoint for  
10 this e-mail.

11 This came from your  
12 custodial file directly, Ms. Burns.

13 A. Okay.

14 Q. And it appears to be a slide  
15 deck that was sent to Ron Kuntz from a  
16 Hany Rofael concerning FDA guidance for  
17 ADF. ADF stands for anti-diversion  
18 formula; is that right? For -- or  
19 anti-abuse formula -- anti-diversion  
20 formula of a pill, right?

21 A. Abuse-deterrent formula.

22 Q. Or abuse-deterrent formula.  
23 Okay. And the second slide deck -- let's  
24 see.

1                   There are two slide decks,  
2     only one of which we took from the family  
3     of product -- of production. And I'm  
4     focusing very specifically on Page 22,  
5     "Abuse potential of tapentadol  
6     immediately release" -- "immediate  
7     release?"

8                   And I wanted to -- in order  
9     to focus on 22, I need to take you back  
10    to 19, because different employees owned  
11    different sections of this PowerPoint.  
12    And this particular study was addressed  
13    by a Peter Zannikos. Do you know who  
14    Peter Zannikos is?

15                  MS. STRONG: Objection to  
16                  the commentary prior to the  
17                  question.

18                  THE WITNESS: I don't know  
19                  who he is. And I'm actually -- as  
20                  I'm flipping through this, I'm not  
21                  familiar with this presentation.

22    BY MR. JANUSH:

23                  Q.     Okay. Are you familiar with  
24    any -- hearing -- have you heard about

1 any likability study that was done to  
2 compare tapentadol IR to hydromorphone  
3 IR?

4 A. The likability,  
5 quote-unquote, study sounds familiar, but  
6 I don't know the details of it.

7 Q. Did you ever recall hearing  
8 or learning that the likability between  
9 tapentadol IR and the equal doses of  
10 hydromorphone IR was shown to be similar  
11 across the -- that there wasn't a  
12 statistically different -- significant  
13 difference across the studied  
14 participants?

15 MS. STRONG: Objection to  
16 form.

17 THE WITNESS: No, I'm not --  
18 I'm not aware of that.

19 MR. JANUSH: Can we go off  
20 the record for a moment. We're  
21 organizing really fast. We cut  
22 out a chunk of stuff, and  
23 skipping, trying to find a  
24 document that's out of order.

1 THE VIDEOGRAPHER: We are  
2 now going off the record. And the  
3 time is 4:05 p.m.

4 (Short break.)

5 THE VIDEOGRAPHER: We are  
6 now going back on the record. And  
7 the time is 4:17 p.m.

8 BY MR. JANUSH:

9 Q. So, Ms. Burns, I've handed  
10 you what I've marked as Exhibit 14 during  
11 the break.

12 (Document marked for  
13 identification as Exhibit  
14 Janssen-Burns-14.)

15 MR. JANUSH: And it is  
16 JAN-MS-00758697.

17 BY MR. JANUSH:

18 Q. It's an e-mail from you to a  
19 Jenna Ramalho on July 11, 2014. And it's  
20 attaching a sample audio-visual script in  
21 a document form which itself is the  
22 second -- the next sequential Bates  
23 number, JAN-MS-58698. All of this has  
24 been collated together to be marked as

1 Exhibit 14.

2 Who is Jenna Ramalho?

3 A. I've been trying to figure  
4 that out while you were talking. I  
5 don't -- I don't remember. With group  
6 DCA. You know, I don't know actually.  
7 Not a Janssen person.

8 Q. All right. And are you --  
9 are you familiar with the topic of  
10 titrating the Nucynta dosing to get to an  
11 optimal dose?

12 A. Nucynta ER dosing.

13 Q. Nucynta ER dosing. Are you  
14 familiar with that?

15 A. Yes.

16 Q. Okay. What's your  
17 understanding of -- of the subject of  
18 titrating Nucynta ER to get to an optimal  
19 dose?

20 A. It's been a while. So hold  
21 on a second, okay.

22 The idea is that when a  
23 patient is given Nucynta ER, the  
24 prescriber will pick a starting dose but

1     that's just a starting dose. They need  
2     to titrate up to a therapeutic level to  
3     see the kind of efficacy effect that we  
4     saw in the clinical study.

5                     So the idea is that you  
6     don't get the efficacy that has been  
7     shown in the study unless you are at a  
8     certain range that's also matching what  
9     was in the clinical study.

10            Q.     So is the -- I'm just trying  
11     to understand this. Is the concept that  
12     every patient needs to be titrated up to  
13     get this optimal dose?

14            A.     The idea is that to get the  
15     efficacy effect as you would expect to  
16     get per the clinical study, you have to  
17     use the doses that were used in the  
18     clinical study.

19                     If you use below that -- the  
20     study was studied at a therapeutic level.  
21     So if you're not within that window,  
22     you're not likely to see effect. So you  
23     have to get into the right dose as it was  
24     studied.

1           Q.     So is it the case that all  
2     patients need to track the outcomes of  
3     that clinical study and all patients need  
4     to be titrated upward to get into that  
5     efficacious dose that you're describing?

6           MS. STRONG:   Objection to  
7     form.

8           THE WITNESS:   Okay.   I think  
9     that was two parts to that  
10    question.

11   BY MR. JANUSH:

12          Q.     I'm just trying to  
13    understand exactly what you're saying  
14    about titrating in terms of does that  
15    apply to all patients?

16          MS. STRONG:   Objection to  
17    form.

18          THE WITNESS:   Let me -- let  
19    me use an analogy.   If you have  
20    like a Tylenol or something like  
21    that and you're supposed to take  
22    500 milligrams, if you take 10  
23    milligrams there's probably no  
24    guarantee that you'll get any

1 relief because you didn't take the  
2 dose that was recommended.

3 So the whole idea is that  
4 Nucynta ER also has to be taken at  
5 the dose that's recommended that's  
6 in the package insert because that  
7 has been shown to have efficacy.

8 So that's the whole idea  
9 behind this is that the patient  
10 has to be given the right dose and  
11 taking the right dose in order to  
12 get effect.

13 See? So that's the concept.  
14 All right. So that's one concept.  
15 You have to get to the right dose  
16 to get effect.

17 The other part about that is  
18 about the titration, which is when  
19 they are first given the Nucynta  
20 ER they are likely given a lower  
21 dose than where they need to be.  
22 And titrating means you change the  
23 dose up until you get to that  
24 therapeutic level.



1                   And once you're within that  
2           therapeutic level, you should be  
3           fine and you should be able to  
4           feel the effect of the drug.

5                   Does that make sense?

6   BY MR. JANUSH:

7           Q.     Okay. Are you familiar  
8   with -- well, what milligrams did Nucynta  
9   get prescribed in, in terms of the actual  
10  pill itself?

11                   How was it sold?

12           A.     Okay. So --

13                   MS. STRONG: Objection to  
14           form.

15                   THE WITNESS: So I think  
16           that's two separate things, right?  
17           Dosing, like what they take --

18   BY MR. JANUSH:

19           Q.     Dosing is different than the  
20           milligrams.

21           A.     -- is different from -- from  
22           the pills.

23           Q.     I understand.

24           A.     Okay. So the pills -- I

1 don't remember. I'm going to cheat a  
2 little bit here and look at the  
3 referencing here. So actually on Page 2,  
4 at the bottom --

5 MS. STRONG: To the  
6 extent -- to the extent that you  
7 don't -- if you're just reading  
8 from a document, to make it clear,  
9 if you don't recall, you --

10 THE WITNESS: Oh, okay.  
11 Yeah, I mean, I don't --

12 MS. STRONG: I don't think  
13 he's asking you to just read the  
14 document. I think he's asking  
15 what you recall.

16 THE WITNESS: Yeah, so there  
17 were multiple dosages in terms of  
18 the -- the pills. Like four or  
19 five. For -- you know, to be  
20 tailored for patients in terms of  
21 what they need.

22 BY MR. JANUSH:

23 Q. Separately do you have an  
24 understanding as to whether Nucynta ER

1 was to be a -- was to provide 12 hours of  
2 pain relief?

3 A. Wait, I'm sorry, what's the  
4 question?

5 Q. Do you have an understanding  
6 as to whether Nucynta ER, the extended  
7 relief, was to provide 12 hours of pain  
8 relief?

9 A. Nucynta ER is extended  
10 release, so it's supposed to provide  
11 extended relief, yes.

12 Q. But it doesn't provide  
13 continuous release throughout the entire  
14 12 hours, right? There's a -- there's a  
15 peak and a valley in terms of the timing  
16 during that 12 hours; isn't that right?

17 MS. STRONG: Objection to  
18 form.

19 THE WITNESS: So I think the  
20 details of the peaks and troughs  
21 can be answered by a medical  
22 person much better.

23 But my understanding is that  
24 all drugs work in that way, the

1           tablets that you take, you get  
2           sort of a peak and then you get a  
3           trough. That's why when you have  
4           an extended release, you -- you  
5           reduce the numbers of the peaks  
6           and troughs so that you can have a  
7           more consistent pain management.

8       BY MR. JANUSH:

9           Q.       And if you're titrating  
10          upwards and adding dosing of Nucynta to a  
11          patient, you're also reducing the peaks  
12          and troughs, aren't you?

13                 MS. STRONG: Objection to  
14          form. I mean this is really  
15          just -- she's not a doctor.

16       BY MR. JANUSH:

17           Q.       Just asking if you know.  
18          You seem to know a lot.

19           A.       I cannot answer that.  
20          That's a very complicated medical  
21          question.

22           Q.       Turning to Page 2, I'll put  
23          a sticker on what I want to look at. So  
24          I'll highlight it instead.

1                   This is -- what does this  
2    mean, "Kanitha catches challenge coin"?

3           A.     It's off screen.

4           Q.     Sorry. You have it on  
5    Page 2 as well.

6           A.     Yeah, okay. What does it  
7    mean? So I think we were trying to make  
8    the entire presentation interesting. So  
9    when we transition from one speaker to  
10   the next, we throw this coin to each  
11   other and we kind of catch it and it's  
12   supposed to reflect like a transition  
13   from -- like passing the baton to the  
14   next speaker.

15          Q.     Got it. Thank you.

16                   And is this your speech that  
17   was recorded or filmed starting with,  
18   "Thanks Terry" and --

19          A.     Yeah. Yeah. It looks like  
20   it. It looks like this is the script  
21   that we would have read for recording.

22          Q.     Okay. And here you address,  
23   "As you know, proper dosing is critical  
24   in achieving the powerful efficacy that

1 Nucynta ER has to offer. We also know  
2 that a major challenge around this topic  
3 is the fact that most HCPs don't titrate  
4 quickly enough or high enough for  
5 patients to reach their optimal dose,  
6 which can result in patients not  
7 achieving adequate analgesia and being  
8 switched off the product and HCPs having  
9 a negative clinical experience."

10 I read that to now lead into  
11 the ensuing question.

12 How did you know that a  
13 major challenge around this topic was  
14 that HCPs, healthcare practitioners,  
15 weren't titrating quickly enough or high  
16 enough for patients to reach their  
17 optimal dose?

18 A. So a couple of things.  
19 Earlier on, when we talked about -- when  
20 I testified to like having insight that  
21 allowed us to tailor what we did from a  
22 marketing standpoint, that referred to us  
23 doing market research with, you know,  
24 some clinicians to understand their

1 perception or their experience with  
2 Nucynta ER.

3                   So there was one particular  
4 market research that I remember. We  
5 specifically talked to clinicians who had  
6 started to prescribe Nucynta ER, just a  
7 little bit, and then stopped. And we  
8 wanted to know why, because we really  
9 truly believed that Nucynta ER is a good  
10 product, and if they get initial  
11 experience that they would continue to,  
12 you know, prescribe Nucynta ER for  
13 appropriate patients.

14                   So when we asked these  
15 doctors, you know, a number of them said  
16 that when they prescribed Nucynta ER to  
17 patients, they did not get a positive  
18 feedback from the patient that the pain  
19 control was working.

20                   So they were getting  
21 negative feedback from patients that they  
22 didn't get proper pain control, so the  
23 doctor would switch them off and give  
24 them something else and kind of determine

1     that Nucynta ER doesn't work, right, that  
2     it wasn't providing efficacy as it  
3     should.

4                     And then we would probe some  
5     more, like, you know, what dose were you  
6     using? We really tried to understand the  
7     clinical relevance of what they were  
8     telling us. And we found out that the  
9     doctors were using much lower doses than  
10    the dose that we studied in the clinical  
11    study.

12                    So the patients didn't  
13    really have a chance to have proper  
14    amount of drug in the system to provide  
15    that efficacy effect.

16                    So that's how we found out.  
17    And then we used that to emphasize to the  
18    representatives that they need to spend  
19    more time educating the doctors around  
20    the dose, what doses were studied in the  
21    clinical study, why was it done in that  
22    way, what did we see, you know, as a  
23    result.

24                    Q.     I think you answered my



1 follow-up question. And is this -- when  
2 you say the study, this is all from the  
3 chronic low back pain study; is that  
4 right?

5 A. Yeah. Predominately the  
6 chronic low back pain study.

7 Q. Do you know how many  
8 physicians were studied for their  
9 perceptions in order for Janssen or for  
10 you to form this understanding that  
11 physicians weren't titrating quickly  
12 enough and, therefore, patients were  
13 dissatisfied with Nucynta ER?

14 A. I don't remember exactly. I  
15 would say it was a qualitative market  
16 research. So my best guess is less than  
17 a hundred. But then we also tried to  
18 validate with field input.

19 So then we started to ask  
20 the sales representatives, are you  
21 hearing this? What are you finding out?  
22 What are the doctors doing? And it  
23 seemed to confirm our finding.

24 Q. Did you use an external

1 company to do this physician perception  
2 market research?

3 A. Market research? I believe  
4 so.

5 Q. Do you know the name of that  
6 company?

7 A. No. Because that would -- I  
8 don't recall. It would have been  
9 something that the market research person  
10 would have selected.

11 Q. And who was that?

12 A. Oliver Bock at the time.

13 Q. You said at the time. Was  
14 Oliver Bock also someone who -- did he  
15 move over from market research to  
16 analytics or perhaps the other way around  
17 at one point?

18 A. He has done both, yeah. And  
19 I think at one point market research and  
20 analytics reported up to the same person.  
21 So he did both functions, yes.

22 MS. STRONG: Do you have an  
23 extra paperclip?

24 MR. JANUSH: What's that?

1 MS. STRONG: Do you have  
2 extra paperclip by chance? Thank  
3 you.

4 MR. JANUSH: Sure.

5 (Document marked for  
6 identification as Exhibit  
7 Janssen-Burns-15.)

8 BY MR. JANUSH:

9 Q. I'm going to move onto  
10 Exhibit 15. This is an e-mail from Phung  
11 Quach to Patricia Yap, cc'g you,  
12 April 16, 2013. And it appears that this  
13 is addressing the instruction to  
14 patients, the -- let me read this.

15 "The important safety  
16 information insert, select ISI,  
17 concerning Nucynta ER tablets and the  
18 instruction to add back into the  
19 important safety information that  
20 swallowing Nucynta ER tablets whole" --  
21 excuse me -- "to add back that crushing,  
22 dissolving, or chewing Nucynta ER can  
23 cause rapid release and absorption of a  
24 potentially fatal dose of tapentadol."

1                   Do you remember this  
2       communication in April of 2013 between  
3       Phung and Patricia Yap and copying you?

4                   MS. STRONG: Objection to  
5       the form.

6                   And particularly the  
7       commentary prior to the question.

8       BY MR. JANUSH:

9               Q.     Oh, sorry. I didn't read  
10      the Bates number in. JAN-MS-00760716.

11                   And, incidentally, you are  
12      on this e-mail earlier in the string as  
13      well.

14               A.     Okay. To answer your  
15      question, I don't remember this  
16      particular conversation or the e-mail  
17      exchange. But I am familiar with the  
18      language.

19               Q.     Okay. So INTAC technology  
20      in NER asset. I understand INTAC  
21      technology is a more crush-resistant  
22      technology created by Grünenthal. Do you  
23      share that understanding or have any  
24      knowledge about that?

1           A.     Yes.

2           Q.     Okay. And it says, going  
3 down in the -- in the -- to the subject  
4 line, "INTAC" -- it's "Re: INTAC  
5 technology in NER asset." Is that  
6 Nucynta ER asset?

7           A.     Nucynta ER.

8           Q.     Okay. And someone -- Phung  
9 is saying in the middle of this page,  
10 "Not sure if the follow-up meeting has  
11 occurred, but my comments are below to  
12 what Tricia sent last Friday. Martha,  
13 let me know if you have decided to get  
14 rid of abuse language altogether in the  
15 select ISI."

16                   And then Patricia responds,  
17 "Phung, meeting with Michael is on  
18 Wednesday. Why are we adding back,  
19 'Instruct patients to swallow Nucynta ER  
20 tablets whole. Crushing, dissolving, or  
21 chewing Nucynta ER can cause rapid  
22 release and absorption of a potentially  
23 fatal dose of tapentadol'? Please  
24 advise. Thanks, Tricia."

1                   And Phung responds, "I  
2     didn't hear why it was deleted in the  
3     first place."

4                   So my question following --  
5     reading the e-mail is, do you have any  
6     idea for how long this safety information  
7     was deleted at Janssen concerning the  
8     language about crushing, dissolving, or  
9     chewing Nucynta ER could be fatal?

10                  MS. STRONG: Objection to  
11                  form.

12                  THE WITNESS: Again, I am  
13                  not familiar with this kind of  
14                  back and forth. This is a little  
15                  bit out of context. I don't know  
16                  where this is supposed to be added  
17                  to or removed from. Like, I don't  
18                  know what section of what asset.  
19                  And I think that matters a little  
20                  bit, just to have an  
21                  understanding.

22                  But in general, no, I cannot  
23                  answer that question. I don't  
24                  know when something was added or

1 deleted. And I -- it seems like  
2 this conversation is not finished,  
3 like it would go on because it  
4 doesn't seem like it's resolved  
5 yet in here.

6 BY MR. JANUSH:

7 Q. You know that this warning  
8 language exists in the product insert in  
9 the important safety insert to this date,  
10 do you not?

11 MS. STRONG: Objection to  
12 form.

13 THE WITNESS: I don't know  
14 to this date. I don't know what  
15 it looks like now. And Nucynta ER  
16 is no longer --

17 BY MR. JANUSH:

18 Q. Forgive me.

19 A. -- with Janssen.

20 Q. Not Janssen's. So that's  
21 fair. It's not your product. Not your  
22 former employer's product, I should say.

23 (Document marked for  
24 identification as Exhibit

1 Janssen-Burns-16.)

2 BY MR. JANUSH:

3 Q. I'm going to hand you what's  
4 been marked as Exhibit 16. And this is a  
5 one-page e-mail from you to Terry  
6 Davidson and Ron Kuntz from July 11th of  
7 2014. And it's JAN-MS-00758691.

8 And in this e-mail string  
9 you appear to be writing to Ron Kuntz,  
10 addressing that Gary, and I believe  
11 that's Gary Vorsanger, Dr. Vorsanger,  
12 said that "RADARS will be here on 7/22  
13 and we should join that meeting and  
14 cancel this 7/30 meeting."

15 And Terry writes back. And  
16 I won't read in the interest of time the  
17 entire e-mail. I'm going to focus on a  
18 portion.

19 On July 11th, writes back,  
20 "In my opinion we are getting nothing out  
21 of RADARS data right now. I'm not sure  
22 how much we are spending but it is sunk  
23 money in my opinion. Purdue is  
24 leveraging it and so should we. That



1 will be the purpose of the meeting on the  
2 30th. Let me know if I need to address  
3 with Gary. I'll also fill you in on a  
4 very disappointing experience with Hany  
5 on Wednesday regarding RADARS data."

6 And you wrote back, "Good  
7 plan. Makes sense."

8 Do you remember this  
9 interaction in July of 2014?

10 A. No. Actually not.

11 Q. Not at all?

12 A. No.

13 Q. Do you know who RADARS is?

14 MS. STRONG: Objection to  
15 form.

16 THE WITNESS: Not exactly.

17 BY MR. JANUSH:

18 Q. Okay. No memory at all with  
19 respect to what RADARS data is?

20 A. Like I feel like I should  
21 know but I've -- I've forgotten.

22 Q. Okay. Any idea what Terry  
23 Davidson was referring to when he was  
24 addressing that Purdue was leveraging

1 RADARS data and so should we?

2 A. No.

3 (Document marked for  
4 identification as Exhibit  
5 Janssen-Burns-17.)

6 BY MR. JANUSH:

7 Q. I'm going to hand you what  
8 I'm -- I've marked as Exhibit 17.

9 JAN-MS-0076218. This came directly from  
10 your custodial file production, and it  
11 appears to be a document concerning the  
12 website, Prescribe Responsibly and the  
13 Nucynta website.

14 And it's showing that on the  
15 top, I think it's showing, and I want to  
16 get your clarification, that at the top  
17 link, link from --

18 A. You are off screen.

19 Q. Sorry. Link from, it's hard  
20 to read, Nucynta.com resources managing  
21 chronic pain, link to  
22 PrescribeResponsibly.com pain assessment  
23 resources. And there's a bunch of these.  
24 This is just one example. And anchor

1 text says "Pain association resources."  
2 And in the on-page copy, out of sentence  
3 like, "Please read on for further pain  
4 resources."

5 Who would be writing these  
6 notes on the context concerning these  
7 linking notes between Nucynta and --  
8 Nucynta's website and the Prescribe  
9 Responsibly website?

10 MS. STRONG: Objection to  
11 form.

12 THE WITNESS: First, I don't  
13 recall seeing this. So my best  
14 guess would be Ron Kuntz or an  
15 agency that he works with.

16 BY MR. JANUSH:

17 Q. Okay. Do you recall ever  
18 even seeing this document?

19 A. It doesn't look familiar.

20 Q. Okay. I'm going to put that  
21 away. I promised Sabrina that I'd get  
22 faster here.

23 I'll hand you what's been  
24 marked as Exhibit 18. It's

1 JAN-MS-00748937.

2 (Document marked for  
3 identification as Exhibit  
4 Janssen-Burns-18.)

5 BY MR. JANUSH:

6 Q. Here, you appear to be cc'd  
7 on this e-mail string. Hold on one  
8 second. You are present on e-mail  
9 correspondence that's regarding  
10 PrescribeResponsibly.com, and --

11 A. It is? You sure?

12 Q. Maybe I'm wrong.

13 A. This is something else.

14 Q. Sorry, this is speaker  
15 bureaus. I apologize.

16 A. No, this is not speaker  
17 bureau.

18 Q. One second. One second. I  
19 may have given you the wrong document.

20 Yeah, no, this is -- this is  
21 about -- it seems to be about templates  
22 and -- let's look at the first -- it's  
23 for the Nucynta app. I think it's the  
24 Nucynta app on the iPad. And it's, I

1 think, about how the app links up to  
2 other bits of information, so I wanted to  
3 confirm that.

4 Category resources. That's  
5 a -- that's a resources tab in the  
6 Nucynta app; is that right?

7 MS. STRONG: Objection to  
8 form. In particular, the  
9 commentary in advance of the  
10 question.

11 MR. JANUSH: The commentary  
12 is being provided prefatory for  
13 background to try and assist the  
14 witness in understanding why I'm  
15 handing her a document that is  
16 otherwise very difficult to read.

17 THE WITNESS: Hold on.  
18 Maybe I can interpret what this  
19 is.

20 Okay. I'm sorry, ask your  
21 question again.

22 BY MR. JANUSH:

23 Q. So I'm looking at this and I  
24 think this concerns the Nucynta app.

1 A. Yes.

2 Q. And you were involved --

3 A. Yes.

4 Q. -- in the Nucynta iPad

5 app --

6 A. Yes.

7 Q. -- in rolling that out,

8 right?

9 A. Yes.

10 Q. And you were involved in the

11 editorial review of certain language on

12 that app and involved in content for that

13 app; is that right?

14 A. I was responsible for the --

15 for the content, yes.

16 Q. Okay. What is -- was there

17 a category -- is there a category in the

18 app, resources with subcategories like

19 appointment templates for sales reps,

20 speaker programs, unbranded, managed

21 care, clinical trial?

22 MS. STRONG: Objection to

23 form.

24 THE WITNESS: There are

1 sections in the app, and these  
2 were the categories and the  
3 subcategories.

4 BY MR. JANUSH:

5 Q. Okay. And so one of the  
6 sections in the app would be an  
7 appointment template that would -- that  
8 would link to a request, you know,  
9 appointment request e-mail template,  
10 right?

11 A. So the appointment template  
12 would be a template that the reps could  
13 use.

14 Q. Right. That's --

15 A. Right.

16 Q. We're on the same page.

17 A. Okay.

18 Q. And then another -- another  
19 subcategory or tab or a component of the  
20 app would be the speaker program  
21 component, which would link to  
22 Janssenspeakerprograms.com,  
23 Janssenmeetingdirect.com, and the  
24 attendee news channel, right?

1           A.     So I was responsible for the  
2     app and there were multiple sort of like  
3     sections and things. I'm not sure like  
4     this particular e-mail captures the  
5     final. Because we went back and forth a  
6     lot about which sections we would have  
7     and which subcategories. So these may  
8     not be final just -- just to be clear.

9                     But these were things that  
10    we definitely considered and may have  
11    been final.

12           Q.     Okay. And one of the topics  
13    included unbranded. Does that refer to  
14    unbranded marketing?

15           A.     It would be anything that's  
16    unbranded. Anything that's not like  
17    Nucynta or Nucynta ER specific would be  
18    considered unbranded.

19           Q.     And best practices links to  
20    pain community resources, and in the  
21    parenthetical is  
22    PrescribeResponsibly.com, right?

23           A.     That's what it says. I  
24    don't recall if that was final, if we



1 actually had one on unbranded and those  
2 were the things in it. I don't recall.

3 Q. Earlier in the deposition I  
4 asked you at Page 125, Line 6, were you  
5 involved at all with Prescribe  
6 Responsibly, the website that's listed  
7 here as being a resource on appropriate  
8 prescription of opioids and you answered  
9 no. I then asked you at line -- Page  
10 125, Line 11, were you involved -- "So  
11 you weren't involved in any aspect of  
12 Prescribe Responsibly?" And your answer  
13 was, "Correct."

14 I said, "Same question, if  
15 it concerned Prescribe Responsibly for  
16 example if" -- this has typos in it --  
17 "but if the sales reps had iPads with  
18 Prescribe Responsibly on it, would you  
19 have been involved in Prescribe  
20 Responsibly on sales rep iPads," and you  
21 said, "No."

22 Do you remember being --  
23 being asked those questions and giving  
24 those answers?

1           A.     I remember the questions  
2     except for the last one. The nuance of  
3     the question on the last one.

4           Q.     There's typos admittedly.  
5     And it's hard for me to read it. I was  
6     essentially trying to address whether you  
7     were -- would have been involved in  
8     Prescribe Responsibly as it concerned  
9     sales rep iPads, and the answer was no.  
10    Do you recall that?

11          A.     Yeah.

12                   (Document marked for  
13                   identification as Exhibit  
14                   Janssen-Burns-19.)

15   BY MR. JANUSH:

16          Q.     Okay. And it may be that  
17     that's correct. I'm seeking to probe  
18     that a little more by handing you  
19     Exhibit 19, which is an e-mail from Ron  
20     Kuntz to you regarding the Prescribe  
21     Responsibly description for the app. And  
22     since you oversaw the app, I wanted to  
23     ask you, once more whether you were  
24     involved with linking or otherwise having

1 information concerning Prescribe  
2 Responsibly on the sales reps' iPad  
3 assets?

4 MS. STRONG: Objection to  
5 form.

6 THE WITNESS: So when it  
7 comes to the content, the  
8 substantive consent or what  
9 Prescribe Responsibly is all  
10 about, you know, what it conveys,  
11 what stuff is in it, I didn't have  
12 any involvement. It was -- Ron  
13 Kuntz was the person responsible  
14 for it.

15 To the extent that once that  
16 content is developed, that -- if  
17 it needs to be linked via  
18 technology, like in this case, I  
19 was just a conduit for, you know,  
20 trying to make the link happen,  
21 which I'm still not sure if we  
22 actually linked it or not.

23 We had a lot of discussion  
24 with IT, whether or not that was a

1           capability to kind of link in and  
2           link out and not lose people and  
3           not crash the app.

4                       So I'm not sure if we ended  
5           up going with it in terms of  
6           linking to Prescribe Responsibly.  
7           I would say that my answers are  
8           still accurate in that I didn't  
9           really -- I didn't have anything  
10          to do with working on it. So...

11                       (Document marked for  
12          identification as Exhibit  
13          Janssen-Burns-20.)

14 BY MR. JANUSH:

15           Q.       Okay. I'm going to give you  
16          Exhibit 20. That is Bates number  
17          JAN-MS-00753246. It's dated February 6,  
18          2013. And it's an e-mail string between  
19          you and Ron Kuntz at the top. And  
20          further below, you writing to Ron Kuntz  
21          and Patricia Yap. And it seems like at  
22          the very bottom, you're writing, "Cool.  
23          Please provide me with exact language to  
24          use for the sales direction on Prescribe

1     Responsibly. Something like, 'This needs  
2     to be discussed in a separate call from a  
3     promo call,' et cetera. I need to  
4     approve the language and document it."

5             A.     Okay.

6             Q.     Does this -- is this related  
7     to you overseeing at least some language  
8     concerning Prescribe Responsibly on the  
9     sales rep app?

10            MS. STRONG: Objection to  
11            form.

12            THE WITNESS: If I  
13            understand your question  
14            correctly, no. Prescribe  
15            Responsibility -- I'm sorry,  
16            Prescribe Responsibly was Ron's  
17            responsibility to work on. So he  
18            directed, you know, the content,  
19            the language.

20            I'm involved with him on  
21            this or involved with other people  
22            on the team with other projects.

23            When they -- when these  
24            items sort of come together for

1 something where things need to be  
2 collated, so like a sales meeting  
3 or an app where, although I'm not  
4 responsible for the pieces, I need  
5 to collect all the pieces together  
6 to launch something, like a sales,  
7 you know, app for example.

8 So this is a communication  
9 back and forth between me and Ron  
10 to say, this is the kind of stuff  
11 I need, but he needs to provide me  
12 that language.

13 And then in totality,  
14 everything needs to be approved.  
15 So that's why he needs to provide  
16 me with the language, because I'm  
17 not familiar with the program or  
18 how to even describe what it does.

19 BY MR. JANUSH:

20 Q. Okay. And it may be the  
21 case that it wasn't about the app itself.  
22 It may be the case that it concerned how  
23 to use -- how sales reps were to use  
24 Prescribe Responsibly information in

1     general.

2                     So I'm going to move to the  
3     second page and address Number 3,  
4     Paragraph Number 3. Let me clear this up  
5     here.

6                     And you write to Ron, "In  
7     regards to the Prescribe Responsibly  
8     brochure, this was not approved to be  
9     used proactively in conjunction with a  
10    promotional call. There are component of  
11    the brochure that refer to disease  
12    awareness, i.e., case studies, expert  
13    opinion, et cetera. I did discuss this  
14    with Martha, and I will be discussing  
15    with Amit on Friday when I meet with him.  
16    We'll need to have further discussions on  
17    how we move forward in a proactive  
18    fashion after promotional presentation.  
19    The reps can still use the PR brochure.  
20    They would need to use it in a separate  
21    call from a promotional call."

22                     What does it mean that a rep  
23    could still use the Prescribe Responsibly  
24    brochure but would need to use it in a

1 separate call from a promotional call?

2 A. Yeah, so in general the  
3 guidelines from the compliance -- from  
4 compliance -- jeez, it's getting late --  
5 from regulatory and compliance is that  
6 sales representatives have two types  
7 of -- broadly speaking, two types of  
8 tools: Branded tools, which are tools  
9 and brochures, you know, educational  
10 pieces that talk specifically about the  
11 product that they sell; and unbranded,  
12 would be anything else that don't talk  
13 about the product directly.

14 The general guidance is that  
15 they have to use those pieces in separate  
16 settings, like in separate calls. You  
17 can't use them together.

18 So that's all this paragraph  
19 is about, is that we need clear direction  
20 on how to use it because they just can't  
21 use it in the same call with the -- with  
22 the doctor. They can use it with the  
23 same doctor, but like on a different day,  
24 for example, different conversation.



1           Q.     Thank you for that  
2     explanation.

3                     With respect to the website  
4     Prescribe Responsibly, are you aware  
5     whether, during your employment, Janssen  
6     maintained sole editorial control over  
7     the content of the unbranded site?

8                     MS. STRONG:   Objection to  
9     form.

10                    THE WITNESS:   I don't know.  
11     BY MR. JANUSH:

12           Q.     Did you know that Janssen  
13     owned the site?

14                    MS. STRONG:   Objection to  
15     form.

16                    THE WITNESS:   Technically, I  
17     don't know.

18     BY MR. JANUSH:

19           Q.     Did you know that Janssen  
20     linked from its Nucynta site to the  
21     Prescribe Responsibly website?

22           A.     I'm not 100 percent sure.  
23     But based on some of the stuff that we  
24     were looking at, it seems like it might

1 have been, yeah.

2 Q. And do you know whether  
3 Janssen created Prescribe Responsibly to  
4 alleviate prescribers' concerns over the  
5 risks associated with opioid use,  
6 including the risks of diversion and  
7 misuse?

8 MS. STRONG: Objection to  
9 form.

10 THE WITNESS: I don't  
11 believe that -- I don't know  
12 for -- I don't know the, you know,  
13 the reasons for, like, all the  
14 different objectives. But I don't  
15 believe that it was to alleviate  
16 concern. It was more to educate.

17 BY MR. JANUSH:

18 Q. And do you know whether the  
19 Prescribe Responsibly website contained  
20 links to tools, and to this day, contains  
21 links to tools that purport to assist  
22 healthcare professionals in assessing  
23 patient pain levels and assessing and  
24 managing risks associated with aberrant

1 drug-related behavior?

2 A. You said to this day. Like,  
3 I definitely don't know what would be  
4 today. And even when I was working on  
5 the brand, I didn't actually visit the  
6 website to know all that's there. But  
7 that's possible.

8 Q. So while you were working on  
9 the Nucynta brand, you never visited the  
10 Prescribe Responsibly website?

11 A. Not really, no.

12 Q. In -- it's my understanding  
13 that in 2011 Janssen created the Let's  
14 Talk Pain website. Is -- do you know  
15 whether that's -- my understanding is  
16 correct?

17 A. I've heard of Let's Talk  
18 Pain, but I don't know exactly what it  
19 is.

20 Q. Never been on it?

21 A. Not really, no.

22 Q. "Not really" is kind of an  
23 iffy answer, so --

24 A. I might have typed in it and

1 looked at it, but I can't tell you what  
2 it is or what it does. I can't describe  
3 to you what's on this.

4 Q. Okay.

5 A. Not substantial.

6 Q. So if I were to ask you any  
7 questions on the Let's Talk Pain website,  
8 you wouldn't be able to provide me with  
9 any answers?

10 A. Not really, no. Sorry.  
11 That's not -- that wasn't part of my  
12 responsibility.

13 THE VIDEOGRAPHER: We are  
14 now going off the record. The  
15 time is 5:02 p.m.

16 (Short break.)

17 THE VIDEOGRAPHER: We are  
18 now going back on the record. The  
19 time is 5:06 p.m.

20 (Document marked for  
21 identification as Exhibit  
22 Janssen-Burns-21.)

23 BY MR. JANUSH:

24 Q. I'm going to hand you what

1 I've marked as Exhibit 21. This is hard  
2 to read because of the way it printed.  
3 It's a print in native. JAN-MS-01053015.

4 This came from your  
5 custodial -- from -- excuse me, from  
6 custodian Ron Kuntz, but I believe that  
7 you were referenced in the family, or the  
8 custodial recipients.

9 Going to Page 3, would this  
10 have been an accurate depiction of the  
11 pain marketing team organization chart in  
12 March 2012 to the best of your  
13 recollection?

14 A. I don't remember who Hitu  
15 is, but --

16 Q. Who? Who? Who --

17 A. This person, Hitu.  
18 Whatever. I don't recall that name. I  
19 recognize all the other names.

20 Q. There may be some reason  
21 why -- for you not remembering Hitu. He  
22 is not listed with any responsibilities  
23 on Slide 5. Who knows what happened to  
24 Hitu.

1           A.     I'm not familiar with this  
2     deck.   Because it has a lot of  
3     U.S./Canada stuff.   I didn't do anything  
4     outside of the U.S.

5           Q.     Did you have any involvement  
6     in the speaker direct program in terms of  
7     selecting the speakers for the speaker  
8     direct program?

9           A.     No.

10          Q.     Or otherwise setting it up?  
11     No?

12          A.     No.   That was someone else's  
13     responsibility.

14          Q.     How about the meeting direct  
15     program, a live and archive  
16     videoconference series?

17          A.     No.

18          Q.     Okay.   Did you have any  
19     involvement with working with key opinion  
20     leaders to train them for speaking  
21     engagements?

22          A.     No.

23          Q.     Did you have any involvement  
24     with the key opinion leader training

1 sessions or attend them that occurred in  
2 Philadelphia or Dallas in October of  
3 2012?

4 A. I recall attending a  
5 training session. I don't remember which  
6 one as like an observer.

7 Q. As an observer?

8 A. Mm-hmm.

9 Q. And was that a training  
10 session at which 150 key opinion leaders  
11 were brought to -- was that Dallas or  
12 Philadelphia, I should ask?

13 A. Yeah, I don't remember which  
14 one I went to. It would have been only  
15 one of them. And I don't remember how  
16 many people.

17 Q. And I'm speaking  
18 specifically about the one where 150 key  
19 opinion leaders or thereabouts was  
20 brought in, and I understand this  
21 happened on two occasions in Dallas on  
22 October 15th and Philadelphia on  
23 October 22nd of 2012.

24 MS. STRONG: What's the

1 question?

2 BY MR. JANUSH:

3 Q. So were you at either of  
4 those?

5 A. I'm not sure. I was at a  
6 training meeting, but I don't remember  
7 150. It -- it seemed to me a smaller  
8 meeting. So it might have been something  
9 separate from these two. I don't know.

10 Q. Approximately, how many key  
11 opinion leaders were at the meeting that  
12 you attended?

13 MS. STRONG: Objection to  
14 form.

15 THE WITNESS: I don't have a  
16 really good memory of it.

17 I would say in the 30 range  
18 is what I recall. But it's been a  
19 while.

20 BY MR. JANUSH:

21 Q. And where was that?

22 A. I don't remember.

23 Q. Do you remember the state?

24 A. No, I don't remember, sorry.



1           Q.     You know, I want to turn to  
2     the last slide of this document. And  
3     this last slide is addressing major  
4     conferences in 2012. I understand you  
5     didn't put this PowerPoint together, but  
6     I just want to ask you about the star  
7     next to four of these conferences. It  
8     says, "Product theater being held." Do  
9     you know what that means?

10           A.     I was never responsible for  
11     product theater. In general, product  
12     theater is like a presentation.

13           Q.     So for example, at -- if at  
14     the AAPM Palm Springs, California,  
15     February 23 to 25 congress or meeting,  
16     Janssen would be participating in a  
17     presentation.

18           A.     I can't answer to the  
19     specific meeting whether or not the team  
20     attended AAPM that year at that location  
21     and had the presentation, because I  
22     didn't go to any of them.

23                     In general, if you attend a  
24     meeting and you have a product theater,

1     you would have like a presentation at  
2     your booth.

3             Q.     Okay. And you were never  
4     involved in product theaters whatsoever?

5             A.     No.

6             Q.     Earlier when I asked you  
7     about the Let's Talk Pain website, you  
8     said that you never been on it.

9                     Do you know who would be the  
10    primary point person at Janssen that  
11    oversaw Let's Talk Pain?

12                    MS. STRONG: Objection to  
13    form.

14                    THE WITNESS: You know, I'm  
15    not sure who was responsible for  
16    that.

17    BY MR. JANUSH:

18             Q.     Earlier we talked about,  
19    recently, your involvement or lack  
20    thereof with regard to key opinion  
21    leaders, product theaters, advisory board  
22    round tables. What role, if any, did you  
23    play within Janssen in terms of adding or  
24    removing a speaker to the speakers

1 bureau?

2 A. I don't recall having a role  
3 in it.

4 (Document marked for  
5 identification as Exhibit  
6 Janssen-Burns-22.)

7 BY MR. JANUSH:

8 Q. I'm going to give you what's  
9 been marked as Exhibit 22. It's  
10 JAN-MS-007516 -- I'm sorry, 625.

11 And this is -- the bottom  
12 e-mail appears to be an e-mail from David  
13 Sims to you and your supervisor, Patricia  
14 Yap, addressing the subject of "I want to  
15 remove Jeffrey Rogers from the speakers  
16 bureau."

17 Do you see that?

18 A. Yes.

19 Q. And there's an explanation  
20 as to why Jeffrey Rogers is to be  
21 removed, including that, "He will not  
22 drive an hour to speak in Cincinnati but  
23 will be glad to fly to California or  
24 Florida for a speaker program. He never

1 saw my rep, Beth Sence" -- "never saw my  
2 rep, Beth Sence until she wrote him a  
3 note asking if he was still interested in  
4 speaking for us. Until that time, he  
5 never had time to see her when she  
6 stopped in repeatedly at the office.  
7 I've told Beth we will not use Dr. Rogers  
8 if he's not willing to speak locally."

9 And I'm going to skip down  
10 to the end of this, and David is writing  
11 to you and Patricia and saying, "On the  
12 other hand Dr. Bratanow is a former  
13 Nucynta speaker and is well received and  
14 respected in the upper midwest. She has  
15 served on several national committees for  
16 pain management, none of which are  
17 government affiliated. Please add her to  
18 the speakers bureau and we will get her  
19 scheduled."

20 So my question is, is it the  
21 case that David Sims made a mistake by  
22 directing this e-mail to you and Patricia  
23 Yap? In other words, should this e-mail  
24 have only gone to Patricia Yap?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: Each of the  
4 marketing people on the team had a  
5 connection with district sales  
6 manager, kind of like a key  
7 contact. So he could have  
8 included me for that reason. But  
9 I was not responsible for, you  
10 know, the speaker program.

11 BY MR. JANUSH:

12 Q. Who is -- who is David Sims?  
13 He's a sales --

14 A. He's a -- he's a sales  
15 director -- or a sales manager for  
16 Quintiles. He would have sales reps  
17 report to him.

18 Q. Okay. Was he the national  
19 sales manager for Quintiles, the top  
20 person?

21 A. No.

22 Q. Who --

23 A. He's one of the --

24 Q. One of the seven?

1 A. -- seven.

2 Q. Okay. One of the seven  
3 regional or district managers?

4 A. District managers.

5 Q. Who -- what's the name of  
6 the top sales manager, the national sales  
7 manager for Quintiles that oversaw that  
8 entire pain force team?

9 A. I think you asked me this  
10 earlier. Greg.

11 Q. Oh, right. I apologize.

12 A. Greg. His name --

13 Q. I did.

14 A. Yeah.

15 Q. You didn't know the last  
16 name?

17 A. Greg. It's not coming to  
18 me. Sorry.

19 Q. So -- so did you routinely  
20 get requests to add someone to the  
21 speakers bureau?

22 A. No, I wouldn't say  
23 routinely. So I am kind of like a  
24 conduit for him. So if he needed

1 something he would come to me and then I  
2 would triage. So in this case, as you  
3 can see, I didn't respond to him, and  
4 Tricia did. I mean, I wouldn't have  
5 responded because it's not my position  
6 to. I had nothing to do with that.

7 Q. Okay.

8 MR. JANUSH: I have no  
9 further questions at this time.

10 MS. STRONG: Thank you. Off  
11 the record for a moment.

12 THE VIDEOGRAPHER: Okay. We  
13 are going off the record. And the  
14 time is 5:20 p.m.

15 (Short break.)

16 THE VIDEOGRAPHER: We are  
17 now going back on the record. And  
18 the time is 5:42 p.m.

19 MR. JANUSH: While we were  
20 off the record plaintiff's counsel  
21 Evan Janush marked three pieces of  
22 paper that were the Elmo notes  
23 taken by counsel as Exhibit 33 --  
24 23.

1 MS. STRONG: Taken by  
2 Mr. Janush himself, and we've had  
3 a discussion about whether we  
4 think those notes are appropriate  
5 to display during the testimony of  
6 Ms. Burns, and he recognized I  
7 have an objection to it and it  
8 will be saved for another day as  
9 to the potential use of those  
10 notes.

11 Correct, Mr. Janush?

12 MR. JANUSH: All objections  
13 are reserved for trial absolutely.

14 (Document marked for  
15 identification as Exhibit  
16 Janssen-Burns-23.)

17 MS. STRONG: Thank you.

18 - - -

19 EXAMINATION

20 - - -

21 BY MS. STRONG:

22 Q. Good afternoon, Ms. Burns.

23 A. Hi.

24 Q. It's been a long day.



1 A. Yes.

2 Q. We'll try and have a few  
3 more minutes together.

4 A. Sure.

5 Q. You stated in -- and to be  
6 clear, I'm Sabrina Strong representing  
7 Janssen and Johnson & Johnson, and you in  
8 connection with this deposition here  
9 today. And I want to just ask a few  
10 questions at this point.

11 Do you understand that?

12 A. Yes.

13 Q. And you said you started  
14 with Janssen in 2002 and started working  
15 on Remicade, correct?

16 A. Correct.

17 Q. And you were asked questions  
18 about whether or not you received  
19 specific training to set strategy,  
20 develop messages, and to train sales reps  
21 in that role. Do you recall those  
22 questions?

23 A. Yes, I do.

24 Q. Did you receive any training

1     when you started with Janssen in 2002?

2             A.     Yes, I did.

3             Q.     And what was that training,  
4     if you can describe it for us briefly?

5             A.     Sure.  There's quite a lot  
6     of training, onboarding training, HR, so  
7     the rules, policies, expectations,  
8     importantly a lot of compliance training  
9     specific to, you know, the marketing  
10    role.

11            Q.     And did you have any other  
12    training when you worked at Janssen after  
13    you started in 2002 over the years?

14            A.     Yes, I did.

15            Q.     And if you can describe that  
16    for us briefly.

17            A.     Sure.  So periodically we  
18    would have -- we would have to repeat the  
19    compliance training.  I believe that's  
20    probably about once a year we had to do  
21    that.  You know, it's pretty extensive  
22    training to make sure that we are very  
23    compliant -- we're compliant in what we  
24    do and complying with, you know, rules

1 and expectations that the FDA sets about  
2 how we communicate.

3 Q. And you started with Janssen  
4 working on the Nucynta ER product in  
5 2011, you testified, correct?

6 A. Correct. At the end of  
7 2011.

8 Q. And your title at the time  
9 was?

10 A. Product director.

11 Q. There's been testimony about  
12 the marketing team and the sales team,  
13 correct, two different teams?

14 A. Correct.

15 Q. What is the primary  
16 differences, or what are the primary  
17 differences for those two teams?

18 A. So in general, marketing is  
19 responsible for setting strategy,  
20 developing messages, and developing sales  
21 tools and educational tools. And sales  
22 reps are responsible for executing those  
23 strategies and using those tools.

24 Q. And I believe you testified

1     that it's the sales team that executes  
2     the training for the reps as well; is  
3     that correct?

4             A.     Correct.

5             Q.     From your perspective, why  
6     was the company interested in marketing  
7     Nucynta ER?

8             A.     From my perspective, and my  
9     understanding, Janssen believed that  
10    there was unmet need in the marketplace  
11    for chronic pain. And that Nucynta ER  
12    had an opportunity to provide a great  
13    option for those patients in need of  
14    opioid for chronic pain. It was believed  
15    to have good strong efficacy profile and  
16    a really strong side effects profile.

17             It also had a  
18    tamper-resistance formulation that would  
19    help, you know, strengthen the  
20    differentiation for the product in the  
21    marketplace.

22             Q.     And so you mentioned a good  
23    side effect profile. Were you permitted  
24    or were sales reps permitted to say that

1 Nucynta ER had a better GI profile than  
2 other long-acting opioids, were you able  
3 to say that to doctors?

4 A. No, we were not able to say  
5 that.

6 Q. And why not?

7 A. We're not able to make  
8 comparative statements because there's no  
9 data, head-to-head, comparing Nucynta ER  
10 with anything else. And also the GI side  
11 effect profile was one of the side  
12 effects and we can't just tease out one  
13 particular item to highlight. We had to  
14 present all of the side effects in -- in  
15 its totality together.

16 Q. And you mentioned that one  
17 of the attributes of Nucynta ER was its  
18 tamper-resistance characteristics. What  
19 can you tell us about what that meant?  
20 How was it that Nucynta ER was tamper  
21 resistant?

22 A. Nucynta ER was designed to  
23 not be crushed or dissolved and so that  
24 makes it, you know, resistant to being

1 amended.

2 Q. And were you allowed to  
3 highlight that characteristic, that  
4 tamper-resistant characteristic of the  
5 product, in marketing materials?

6 A. No, we were not.

7 Q. And why not?

8 A. We were only allowed to  
9 promote or educate around attributes that  
10 are in the package insert and tamper  
11 resistance is not in the package insert.

12 Q. You've testified about your  
13 role in developing marketing materials  
14 for prescribers. Can you briefly  
15 describe that process, how you go about  
16 the process of creating marketing  
17 materials for prescribers?

18 A. Sure. We start first with  
19 gathering insight about the marketplace,  
20 about the prescriber, because we need to  
21 learn from them what's important to them.  
22 What are attributes that are important to  
23 them when they are selecting, you know,  
24 an opioid. What are sort of their

1 concerns, what are their needs. What do  
2 they need to hear, in what order. So we  
3 would conduct market research to gain  
4 that insight. We would then develop  
5 marketing messages. We would sort of  
6 talk about it, vet it, and once we felt  
7 pretty comfortable with that draft we  
8 would submit it for -- to a committee to  
9 review and to be discussed and approved.  
10 And that committee consists of medical,  
11 legal, compliance, and regulatory. And  
12 it's a pretty involved process. We would  
13 submit that document into -- to the  
14 committee. They would review the  
15 document, they would make some comments.  
16 Based on those comments then someone  
17 would -- who was responsible for that  
18 process, would schedule a meeting for all  
19 of us to have a discussion about the  
20 piece.

21 The marketer, in this case  
22 myself, I would present the piece that I  
23 submitted for review. I would explain  
24 the objective, what we're trying to

1     achieve, and then the reviewers would ask  
2     questions to gain better understanding.  
3     They would ask a lot of questions. And  
4     you know, they may ask us to make some  
5     revisions to the document, and then we  
6     submit it for review again. So it's a  
7     pretty robust process.

8             Q.     And what is that committee  
9     called internally at Janssen?

10            A.     PRC.

11            Q.     And what does PRC stand for?

12            A.     Promotional review  
13     committee.

14            Q.     And what was the purpose in  
15     creating these marketing materials for  
16     Nucynta ER?

17            A.     It's to educate clinicians  
18     about Nucynta ER. Explain to them the  
19     product profile, the efficacy, the  
20     safety, the dosing, how to use. So it's  
21     really to educate clinicians on what  
22     they, you know, should know about the  
23     product.

24            Q.     And ultimately, stated a



1 different way, what were the goals of the  
2 marketing team with respect to the  
3 messaging you created?

4 A. Our goal ultimately is to  
5 help clinicians understand Nucynta ER and  
6 prescribe Nucynta ER for appropriate  
7 patients that it's indicated for.

8 Q. And this PRC process that  
9 you just described for us briefly, how  
10 long would that process take for any  
11 given marketing material that you  
12 submitted?

13 A. I would say it varies quite  
14 a bit depending on the piece, depending  
15 on the complexity of the piece, and the  
16 length of the piece. It could be weeks  
17 to many months, you know, again depending  
18 on the particulars of that piece.

19 Q. And once the marketing  
20 materials were approved by the PRC, could  
21 it then -- could the marketing material  
22 then be used by the sales reps?

23 A. Well, not immediately. They  
24 have to be trained on the piece.

1           Q.     Okay. And how did Janssen  
2 go about training representatives on new  
3 marketing materials?

4           A.     So the marketer -- for  
5 example, myself, I would collaborate with  
6 the sales trainer, or the sales training  
7 manager. And, you know, I would make  
8 sure that they understand the objective  
9 of the piece, the messages and how to  
10 use. And then they would use their  
11 expertise in terms of adult learning  
12 principles and design the training for  
13 the -- for the material.

14                     And then, you know, they  
15 would train -- in conjunction we would  
16 train the sales reps together. And at  
17 that point the sales reps can ask  
18 questions, and once they would fully  
19 understand the piece then they can begin  
20 using the piece.

21           Q.     Similar question. What is  
22 the goal of the training process of sales  
23 representatives on new marketing  
24 materials?

1           A.     So the goal is to make sure  
2     that they really understood the objective  
3     of the piece, how to properly use the  
4     piece. Allow opportunities for them to  
5     ask any clarification questions. And a  
6     lot of times it also covers -- we cover  
7     dos and don'ts. Do this, don't do that.

8           Q.     Was there a review process  
9     for the training materials that you used  
10    with the sales representatives  
11    internally?

12          A.     Yes. There was also a  
13    pretty robust review process as well  
14    with, you know, medical, regulatory,  
15    compliance.

16          Q.     And in addition to the  
17    training on particular marketing  
18    materials, do you know whether the sales  
19    representatives at Janssen received any  
20    other training from Janssen?

21          A.     Yes. In addition to the  
22    specific marketing pieces, they also have  
23    quite a lot of training around  
24    compliance, FDA compliance, that's

1 specific to their role as sales  
2 representatives.

3 Q. And, again, you are not on  
4 the sales team, so this is not your  
5 responsibility, correct?

6 A. Correct. It's not my  
7 responsibility.

8 Q. When -- I just want to make  
9 sure I've asked you this question. When  
10 you joined Janssen, did you receive  
11 training on FDA and regulatory and  
12 compliance issues?

13 A. Yes, I did. I did. And  
14 ongoing as well.

15 Q. What do you mean by that?

16 A. Not just at the beginning.

17 Q. What do you mean by ongoing?

18 A. Like every year we have to  
19 renew our training.

20 Q. You were asked some  
21 questions about REMS, and you generally  
22 responded that didn't know details  
23 related to REMS. Do you recall that  
24 testimony?

1           A.     Yes, I do.

2           Q.     Why is it that you were not  
3     familiar with the details of REMS?

4           A.     I was not responsible for  
5     working on REMS. That was the  
6     responsibility of Ron Kuntz, who worked  
7     very closely with medical affairs. So I  
8     was aware of it but I -- you know, I did  
9     not have responsibility for it.

10          Q.     And so you would expect that  
11     Ron Kuntz would better know the details  
12     related to the reps, correct?

13          A.     Yes, correct.

14          Q.     You were also asked some  
15     questions about Prescribe  
16     Responsibility -- Responsibly website.

17                 Do you recall those  
18     questions?

19          A.     Yes.

20          Q.     And I believe you asked  
21     whether you viewed the website and you  
22     testified something to the effect of no,  
23     not really. Do you recall that  
24     testimony?

1 A. Yes.

2 Q. Do you know today whether  
3 the time when you were working on Nucynta  
4 ER, whether you accessed the Prescribe  
5 Responsibly website or not?

6 A. I may have, but I do not  
7 remember.

8 Q. And the same question with  
9 respect to Let's Talk Pain. I believe  
10 you were asked about Let's Talk Pain.  
11 And you gave an answer that said  
12 essentially no, not really in terms of  
13 whether or not you accessed that content.  
14 Do you recall that testimony?

15 A. Yes, I do.

16 Q. And same question. Sitting  
17 here today, do you know at the time that  
18 you worked on Nucynta ER, whether you  
19 accessed the content of Let's Talk Pain  
20 or not?

21 A. I may have, but I do not  
22 remember.

23 Q. From your perspective, was  
24 Nucynta ER successful in the marketplace?

1           A.     No, I don't think it was  
2     successful.

3           Q.     And why is it that you  
4     believe -- let me first ask.

5                     How do you know that it  
6     wasn't successful, or why is it that you  
7     believe that it wasn't successful?

8           A.     Well, I believe that it's  
9     not successful because a lot of  
10    clinicians still were not aware of  
11    Nucynta ER. They didn't recall the  
12    product by name. If you asked them to  
13    describe Nucynta ER and why it's  
14    different, they couldn't really  
15    articulate.

16                    So I don't think it was  
17    successful in that clinicians didn't  
18    really understand the benefits of Nucynta  
19    ER and couldn't differentiate, you know,  
20    why it's different from other products.

21           Q.     And why is it that you  
22    believe that they weren't able to  
23    appreciate the differentiation of Nucynta  
24    ER as compared to other long-acting

1     opioids?

2                     MR. JANUSH:  Objection.

3                     THE WITNESS:  I believe that  
4             the attributes of Nucynta ER that  
5             we're differentiating were the  
6             things that we couldn't talk  
7             about, the GI side effects, the  
8             really good data.  We couldn't  
9             tease out and highlight that.  So  
10            it was not highlighted.  The  
11            tamper resistance, which is a  
12            great attribute, we couldn't talk  
13            about it.

14                    So from that perspective,  
15            the things that we were able to  
16            talk about were not the key  
17            differentiating factors of Nucynta  
18            ER.

19                    So for that reason,  
20            clinicians couldn't -- couldn't  
21            have known that information.

22     BY MS. STRONG:

23                    Q.     And so, your testimony is  
24            that they weren't able to experience



1 using the product with its patients? I  
2 just wanted to clarify. Are you saying  
3 that the clinicians who used the product  
4 couldn't understand the differentiating  
5 factors, or are you talking about  
6 clinicians that did not use the product?

7 A. Oh, I'm sorry, to clarify,  
8 there were many clinicians who never  
9 tried prescribing Nucynta ER. And those  
10 were the clinicians who never were  
11 communicated a reason to try Nucynta ER.  
12 So the clinicians who tried Nucynta ER  
13 you know, had the experience.

14 But I'm talking about many,  
15 many clinicians who didn't feel compelled  
16 to try prescribing Nucynta ER because we  
17 weren't able to communicate  
18 differentiating attributes to catch their  
19 attention.

20 Q. And if Nucynta ER was not  
21 successful in the marketplace from your  
22 perspective, why did you write in your  
23 LinkedIn profile "turned around the  
24 Nucynta molecule business"?

1           A.     So from -- from the company  
2     perspective, Nucynta ER had a low market  
3     share. So that's not success from the  
4     company's perspective. But from me, my  
5     perspective, my professional experience,  
6     we were proud of what we did. We turned  
7     around the Nucynta ER brand performance  
8     in the limited clinicians that we  
9     targeted and the sales reps spoke to. We  
10    were able to show impact that we had an  
11    opportunity to educate the clinicians.  
12    They had an opportunity to try the  
13    product. And for those limited number of  
14    clinicians, their use of Nucynta actually  
15    increased by a little bit. So we were  
16    able to show impact at that scale of what  
17    we were able to control.

18                 So that's why I said that we  
19    were able to make that impact where we  
20    could control.

21           Q.     And so from your perspective  
22    professionally, you believed it was  
23    successful in terms of what you were able  
24    to do with the resources and the

1 circumstances that you were given?

2 A. Yes, absolutely.

3 Q. When did you ultimately  
4 leave Janssen, what time period?

5 A. I would say in the  
6 March 2017.

7 Q. Janssen as a company?

8 A. As a company.

9 Q. And you stopped working on  
10 Nucynta ER, I believe you previously  
11 testified, in 2014, correct?

12 A. Correct.

13 Q. And you worked in other  
14 products thereafter?

15 A. Correct.

16 Q. And left the company in  
17 2017?

18 A. Correct.

19 MS. STRONG: No further  
20 questions at this time.

21 THE WITNESS: Okay, thanks.

22 MS. STRONG: Shall we go off  
23 the record for a moment?

24 THE VIDEOGRAPHER: We are

1           now going off the record, and the  
2           time is 6:01 p.m.

3                       (Short break.)

4                       THE VIDEOGRAPHER: We are  
5           now going back on the record. And  
6           the time is 6:09 p.m.

7                       - - -

8                       EXAMINATION

9                       - - -

10          BY MR. JANUSH:

11                 Q.     Hi -- excuse me. Hi,  
12          Ms. Burns --

13                 A.     Hi.

14                 Q.     I'm going to keep this  
15          fairly quick.

16                 A.     Okay.

17                 Q.     I'm going to address two  
18          issues with you.

19                 A.     Okay.

20                 Q.     One, you were asked  
21          questions concerning GI tolerability and  
22          the fact that -- and you answered that  
23          Janssen couldn't market on GI  
24          tolerability; is that right?

1 MS. STRONG: Objection to  
2 form.

3 THE WITNESS: I'm sorry, say  
4 your question again.

5 BY MR. JANUSH:

6 Q. You couldn't -- Janssen  
7 couldn't market -- Janssen sales reps  
8 couldn't market and promote Nucynta based  
9 on claims of superior GI tolerability; is  
10 that right?

11 MS. STRONG: Objection to  
12 form.

13 THE WITNESS: Right. We  
14 couldn't say that we were  
15 superior.

16 BY MR. JANUSH:

17 Q. Okay. So if we have found  
18 evidence that Janssen did market against  
19 its competitors that Nucynta -- as part  
20 of its core messaging platform, that  
21 Nucynta had better GI tolerability  
22 compared to Oxycodone, specifically  
23 nausea, vomiting -- less nausea, vomiting  
24 and constipation, would that be a --

1 would that be improper?

2 MS. STRONG: Objection to  
3 form.

4 THE WITNESS: So to the best  
5 of my knowledge, during my time on  
6 the team, we never made that  
7 comparison.

8 BY MR. JANUSH:

9 Q. Are you aware that as part  
10 of Nucynta's core message platform,  
11 better GI tolerability was -- that better  
12 GI tolerability was part of Nucynta's  
13 core message platform at a point in time?

14 A. I am not aware that better  
15 GI tolerability is a message that was  
16 ever presented.

17 Q. Are you aware that within  
18 the context of better tolerability,  
19 Janssen promoted that there were -- that  
20 fewer discontinuations means more  
21 patients can achieve pain relief, quote?

22 MS. STRONG: Objection to  
23 form.

24 THE WITNESS: Wait, say that

1 quote again. I'm sorry.

2 BY MR. JANUSH:

3 Q. "Fewer discontinuations  
4 means more patients can achieve pain  
5 relief."

6 MS. STRONG: Objection.

7 Form -- what is the question?

8 BY MR. JANUSH:

9 Q. Are you aware that that was  
10 promoted within the context of better GI  
11 tolerability?

12 A. No, I am not aware.

13 Q. And if that was, in fact,  
14 promoted concerning the topic of GI  
15 tolerability, that would have been  
16 inappropriate --

17 MS. STRONG: Objection.

18 BY MR. JANUSH:

19 Q. -- from a regulatory  
20 standpoint, correct?

21 MS. STRONG: Objection to  
22 form.

23 THE WITNESS: I don't know  
24 if the discontinuation -- I don't

1           remember if discontinuation has to  
2           do with -- is part of the GI side  
3           effect. So I'm kind of not  
4           linking the two together.

5       BY MR. JANUSH:

6           Q.     If it was linked, however,  
7           to -- if fewer discontinuations was  
8           linked to the better GI tolerability  
9           compared to Oxycodone, as that concerned  
10          nausea, vomiting, constipation, that  
11          would be inappropriate marketing,  
12          correct?

13                 MS. STRONG: Objection to  
14          form.

15                 THE WITNESS: So again,  
16          everything that you stated in  
17          terms of promoting the superior GI  
18          side effects compared to  
19          OxyContin, I'm not aware of that  
20          happening.

21                 And I -- not knowing what  
22          this hypothetical is, it would be  
23          very hard for me to evaluate its  
24          appropriateness.



1 BY MR. JANUSH:

2 Q. Well, earlier you said it  
3 would have been inappropriate and that's  
4 why Janssen didn't do it, correct?

5 MS. STRONG: Objection to  
6 form.

7 BY MR. JANUSH:

8 Q. You specifically addressed  
9 that it would have been inappropriate  
10 to market on GI tolerability and Janssen  
11 did not so market.

12 MS. STRONG: Objection to  
13 form. Misstates testimony.

14 THE WITNESS: I don't  
15 remember using the word  
16 "appropriate," that it was not  
17 appropriate to -- to do something.

18 BY MR. JANUSH:

19 Q. Would it have been  
20 appropriate?

21 MS. STRONG: Objection to  
22 form.

23 THE WITNESS: It would be  
24 something that we -- we promoted

1 things that we were allowed to  
2 according to what's in the package  
3 insert.

4 BY MR. JANUSH:

5 Q. And you weren't -- and this  
6 was not in the package insert, this  
7 concept of better GI tolerability, was  
8 it?

9 MS. STRONG: Objection to  
10 form.

11 THE WITNESS: Better GI  
12 tolerability, quote-unquote, I  
13 don't believe is in the package  
14 insert.

15 BY MR. JANUSH:

16 Q. Okay. And separately, you  
17 addressed -- you testified about the  
18 abuse-deterrent formulation of Nucynta  
19 ER. Technically, Nucynta ER, or I should  
20 say Janssen, never got an abuse-deterrent  
21 formulation rating from the FDA on  
22 Nucynta ER; isn't that right?

23 A. I don't know if it's called  
24 a rating, but a tamper-resistant

1 formulation is not part -- it's not in  
2 the package insert.

3 Q. All right. Stated  
4 differently, Janssen never got a  
5 tamper-resistant formulation approval  
6 from the FDA for Nucynta ER, true?

7 A. As far as I'm aware, we  
8 never -- Janssen never received that.

9 Q. And that's why Janssen  
10 didn't tout a tamper-resistant  
11 formulation, true?

12 A. Correct.

13 MR. JANUSH: I have no  
14 further questions.

15 MS. STRONG: Can I just have  
16 a moment. We'll go off the  
17 record.

18 THE VIDEOGRAPHER: Okay. We  
19 are now going off the record. And  
20 the time is 6:15 p.m.

21 (Short break.)

22 THE VIDEOGRAPHER: We are  
23 now going back on the record. And  
24 the time is 6:35 p.m.

1 - - -

2 EXAMINATION

3 - - -

4 BY MS. STRONG:

5 Q. Okay. A few more questions?

6 A. Okay.

7 Q. I previously asked you  
8 whether you could have marketing  
9 materials that Nucynta ER had a better GI  
10 profile than other long-acting opioids.  
11 Do you recall that question?

12 A. Yes.

13 Q. And your answer was?

14 A. No.

15 Q. Okay. Were you allowed to  
16 have marketing materials that addressed  
17 tolerability generally?

18 A. Yes.

19 Q. Okay. So you were allowed  
20 to have marketing materials that  
21 addressed tolerability, but you could not  
22 make a comparative statement as to  
23 another long-acting opioid as to that  
24 tolerability; is that correct?

1           A.       That's correct.

2                   MR. JANUSH:  Objection.

3   BY MS. STRONG:

4           Q.       And I'd like to have you  
5   look for your Exhibit 21 from earlier  
6   today.

7           A.       I have it.

8           Q.       And if you could turn to  
9   Page 36 of that exhibit.

10          A.       Okay.  I have it.

11          Q.       Can you describe for us  
12   generally what is on the slide that's  
13   shown at Slide 36?

14          A.       Okay.  So the table on the  
15   slide that's entitled Tolerability  
16   Profile -- or in a clinical study in  
17   chronic low back pain, tolerability  
18   profile.  This is representing the  
19   tolerability profile for Nucynta ER from  
20   the chronic low back pain.  So there's  
21   different types of side effects that you  
22   would see here.

23                   There are three columns.  
24   The first column represents the data from

1 the placebo arm. The second column  
2 represents the data from the Nucynta ER  
3 arm, and then the last one represents  
4 data from the Oxycodone arm. That was  
5 also included in the study.

6 Q. Okay. So, and  
7 the information that's on the insert of  
8 this slide starting with in a clinical  
9 study in chronic low back pain,  
10 tolerability profile, that component of  
11 this slide, were you allowed to share  
12 that with doctors in marketing materials?

13 A. Yes. That was allowed.  
14 Mm-hmm.

15 Q. And so what did you mean  
16 when you said you couldn't highlight GI  
17 tolerability?

18 A. So when we present this data  
19 from the study, we had to present all of  
20 this in its totality. We weren't able to  
21 make -- pull out statements from any one  
22 of these to highlight certain aspects.  
23 So for example, we know that an attribute  
24 that's important to clinicians is

1     constipation, because there's a lot of  
2     opioid-induced constipation that's quite  
3     painful and discomforting.

4                     Our data is good data. But  
5     we couldn't, say, pull out, just to talk  
6     about constipation, for example. The  
7     only way to present the data for the  
8     tolerability profile is like this, in its  
9     totality.

10            Q.     And just for clarity, could  
11     you say that your GI data was better than  
12     the data in -- for oxycodone in this  
13     study as shown on the slide?

14            A.     No. It's absolutely not.  
15     You cannot compare Nucynta ER to  
16     oxycodone for tolerability or for  
17     efficacy in this study. Even though  
18     oxycodone is in the study, it's an active  
19     control and it's not meant -- it was  
20     never meant to be a comparison to compare  
21     Nucynta ER and oxycodone. So we could  
22     never make that statement to compare the  
23     two.

24            Q.     Okay. But it was

1 appropriate to share this data in terms  
2 of the study data that included oxycodone  
3 and data related to Nucynta ER together  
4 to doctors, correct?

5 A. Yes, absolutely. This is  
6 the way that we needed to show it because  
7 there was -- these were the arms that  
8 were in the study, and we needed to show  
9 it in totality.

10 MS. STRONG: Okay. No  
11 further questions at this time.

12 MR. JANUSH: No questions.

13 THE VIDEOGRAPHER: Okay.

14 This concludes the video  
15 deposition of Kanitha Burns. We  
16 are now going off the record, and  
17 the time is 6:39 p.m.

18 (Excused.)

19 (Deposition concluded at  
20 approximately 6:39 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the witness was duly sworn by me and that the deposition is a true record of the testimony given by the witness.

It was requested before completion of the deposition that the witness, KANITHA BURNS, have the opportunity to read and sign the deposition transcript.

---

MICHELLE L. GRAY,  
A Registered Professional  
Reporter, Certified Shorthand  
Reporter, Certified Realtime  
Reporter and Notary Public  
Dated: December 4, 2018

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

1 INSTRUCTIONS TO WITNESS

2

3 Please read your deposition  
4 over carefully and make any necessary  
5 corrections. You should state the reason  
6 in the appropriate space on the errata  
7 sheet for any corrections that are made.

8 After doing so, please sign  
9 the errata sheet and date it.

10 You are signing same subject  
11 to the changes you have noted on the  
12 errata sheet, which will be attached to  
13 your deposition.

14 It is imperative that you  
15 return the original errata sheet to the  
16 deposing attorney within thirty (30) days  
17 of receipt of the deposition transcript  
18 by you. If you fail to do so, the  
19 deposition transcript may be deemed to be  
20 accurate and may be used in court.

21

22

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24

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E R R A T A

2 - - - - -

3

4 PAGE LINE CHANGE

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ACKNOWLEDGMENT OF DEPONENT

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4

I, \_\_\_\_\_, do

5

hereby certify that I have read the

6

foregoing pages, 1 - 405, and that the

7

same is a correct transcription of the

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answers given by me to the questions

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therein propounded, except for the

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corrections or changes in form or

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substance, if any, noted in the attached

12

Errata Sheet.

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14

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16

\_\_\_\_\_

KANITHA BURNS

\_\_\_\_\_

DATE

17

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19

Subscribed and sworn

to before me this

20

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

21

My commission expires: \_\_\_\_\_

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\_\_\_\_\_  
Notary Public

24

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1	LAWYER'S NOTES		
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